

**PROCEEDINGS AT HEARING
OF
FEBRUARY 4, 2021**

COMMISSIONER AUSTIN F. CULLEN

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February 4, 2021
(Via Videoconference)

(PROCEEDINGS COMMENCED AT 9:30 A.M.)

THE REGISTRAR: Good morning. The hearing is now resumed. Mr. Commissioner.

THE COMMISSIONER: Thank you, Madam Registrar.

Before we resume with Mr. Ennis, Mr. McGowan,

is there anything that needs to be dealt with?

MR. MCGOWAN: No. We're ready to proceed.

THE COMMISSIONER: Thank you. The next participant is Canada on behalf of -- whom Mr. Simonneaux has been allocated 10 minutes.

MR. SIMONNEAUX: Thank you, Mr. Commissioner. Given the evidence elicited by Mr. McCleery and my friend from the province, Canada no longer has questions for this witness.

THE COMMISSIONER: Thank you, Mr. Simonneaux.

On behalf of BC Lottery Corporation,

Mr. Stephens has been allocated 20 minutes.

MR. STEPHENS: Thank you, Mr. Commissioner.

PATRICK ENNIS, a witness
for the commission,
recalled.

EXAMINATION BY MR. STEPHENS:

Q Mr. Ennis, can you hear me okay?

1 A Yes, I can, thank you.

2 Q Mr. Ennis, in your evidence yesterday and at
3 paragraphs 91 to 98 of your affidavit, you
4 provide some information about what was
5 occurring at Ontario gaming facilities, at least
6 at Great Canadian operations. Do you remember
7 that?

8 A Yes, I do. Would it be possible to put that up
9 so I can see it on the screen?

10 Q Absolutely. I think the portion I was referring
11 to is 91 through 98.

12 A Okay. Yeah. I have it here now.

13 Q Is that helpful?

14 A Yep.

15 Q And earlier in your affidavit in a different
16 place you advise that you travelled to Ontario
17 from 2015 to 2019 to build a compliance
18 department for Great Canadian Ontario
19 operations; is that right?

20 A Yes, that's correct.

21 Q Mr. Ennis, you're aware that by 2014 or 2015
22 BCLC had initiated a cash conditions program in
23 BC casinos where --

24 A Yes.

25 Q -- certain patrons would not be permitted to buy

1 in with cash or chips without demonstrating
2 source of those funds for chips?

3 A Yes, of course.

4 Q Am I correct in 2015 there was no comparable
5 cash conditions policy or practice in Ontario
6 casinos?

7 A No, there was not.

8 Q And you are also aware that by 2015 BCLC
9 investigators would conduct interviews of
10 patrons who were subject to cash conditions?

11 A Yes.

12 Q In Ontario in 2015 are you aware of any patrons
13 being interviewed about large cash buy-in
14 transactions?

15 A Yes, it did occur. That function was usually
16 performed by the police.

17 Q So your evidence is that that interview process
18 in Ontario, at least in 2015, was done by a
19 police organization?

20 A Yes. The casino enforcement unit.

21 Q And did you observe a comparable practice in BC
22 at the time in 2015, that is GPEB or police
23 interviewing certain patrons about large cash
24 buy-ins?

25 A No, I did not.

1 Q But although by 2015 BCLC investigators were
2 doing this; correct?

3 A Yes, they were. We helped facilitate those
4 interviews whenever possible.

5 Q In 2015 was there a policy or directive at
6 Ontario casinos to refuse cash buy-ins in
7 \$20 bills over a certain threshold, say \$10,000
8 or \$20,000?

9 A No, there was not.

10 Q And in that period of time, in 2015, was there a
11 policy or practice in Ontario to provide a
12 cheque to patron on cashing out with a notation
13 that the cheque was return of funds not from
14 gaming winnings?

15 A No, there was not.

16 Q What we call out here in BC a convenience
17 cheque?

18 A Yes. And when I'm speaking of these things, I'm
19 speaking of the casinos that Great Canadian
20 operated. I know there were some other service
21 providers, and I'm not familiar with what they
22 may have instituted along those lines, but
23 definitely not in the casinos that we took over
24 as a company in Ontario.

25 Q Okay. Thank you for clarifying that --

1 A Yep.

2 Q -- Mr. Ennis. So when you're speaking -- when
3 I'm asking you and you're speaking of practice
4 of Ontario casinos, you're speaking from your
5 personal knowledge at Great Canadian Ontario
6 casinos?

7 A Yes, that's correct.

8 Q Okay. Just getting back to the convenience
9 cheque. Was this a form of notation, this
10 return of funds not gaming winnings, was that
11 form of notation on cheques something you later
12 saw in your experience in any Ontario casinos
13 after 2015?

14 A Well, as a company when we got into high-limit
15 gaming and tables were approved in the GTA, the
16 Toronto area, we instituted basically a copy of
17 PGA accounts, we called them PGA accounts
18 modelled on BCLC's model where customers -- and
19 this was in 2018, late 2018 when high-limit
20 gaming came to Great Canadian. And we put the
21 same types of policies around source of funds
22 required to go into those accounts around
23 marking cheques with return of funds not gaming
24 winnings and also verified win cheques. So we
25 adopted some of what we had learned in BC and

1 applied it to our Ontario operations in 2018.

2 MR. STEPHENS: Thank you very much, Mr. Ennis. Those
3 are my questions.

4 THE COMMISSIONER: Thank you, Mr. Stephens.

5 I'll now ask Mr. Skwarok on behalf of Great
6 Canadian Gaming Corporation to begin his
7 examination. He's been allocated 20 minutes.

8 MR. SKWAROK: Thank you, Mr. Commissioner.

9 **EXAMINATION BY MR. SKWAROK:**

10 Q Mr. Ennis, who did you report to at Great
11 Canadian?

12 A At which time, Mark? I had various bosses.

13 Q Well, let's go through the period of 2014
14 through to '19.

15 A So in early 2014, or in 2014 I would have
16 reported to Rob Kroeker. After I was promoted
17 to executive director I reported to Rod Baker.

18 Q Did you ever report directly to the board of
19 directors?

20 A Yes. I also had a line of reporting to the
21 board of directors. I was responsible for the
22 management of the internal audit department, so
23 I reported to the audit committee and I also
24 reported to the compliance committee in my role
25 as compliance officer.

1 Q Did you have any difficulty accessing those
2 board members when you saw fit to do so?

3 A Not at all. There was an in-camera session at
4 every meeting where I had the opportunity to
5 speak to them off the record or in private and
6 bring up any concerns I might have had.

7 Q Did management ever tell you not to do something
8 because it was too expensive?

9 A No. Never. And there was a great amount of
10 money spent by Great Canadian through this whole
11 process of implementation of all the different
12 processes that came into being in British
13 Columbia around buying software to monitor
14 things with, around bringing in external
15 auditors like PwC to ensure that their staff
16 were complying with the new regulations.

17 Q Was management attentive to compliance issues
18 that you raised or concerns that you had?

19 A Yes.

20 Q Did you believe that you were adequately
21 staffed?

22 A The department grew enormously while I was there
23 from the time that we started gaining casinos in
24 2015 in other jurisdictions. By the time I left
25 we had analysts, we had compliance officers.

1 The compliance department had grown enormously
2 and there was a big footprint in Ontario which
3 sort of came with the business, but we adapted
4 and built that out similarly in British
5 Columbia.

6 Q Thank you. Were there ever any instances to
7 your knowledge where management turned a blind
8 eye to the misconduct of VIP patrons on the
9 basis that it would benefit revenue?

10 A No, absolutely not.

11 Q Did senior management ever direct you to turn a
12 blind eye to such conduct?

13 A No, they did not.

14 Q To the best of your knowledge did any of your
15 staff ever turn a blind eye to such conduct?

16 A No, they did not.

17 Q Yesterday you gave evidence about the number of
18 cameras at Great Canadian, and in your
19 affidavit -- you don't need to go to it, but you
20 can if you want to. Paragraph 39, you describe
21 how River Rock's camera system exceeded
22 requirements.

23 A Yes.

24 Q Do you recall that?

25 A Yeah.

1 Q Who set the standards for cameras in casinos?

2 A The British Columbia Lottery Corporation.

3 Q How was River Rock's camera system better than
4 what BCLC mandated?

5 A Well, we had more cameras on the gaming floor
6 than were required. There's a minimum level
7 there needs to be on top of gaming tables and
8 covering certain areas and we always had more
9 than was necessary. As well as in our parking
10 areas, we went to an extreme to ensure that our
11 customers were safe and that we could monitor
12 activities in the parkades, parking lots.
13 Parkades can be issues with people hanging
14 around and public safety concerns, so there was
15 no expense spared there. Also the hotel was
16 fully -- had cameras all over the hotel, more
17 than you would find in most hotels, in hallways
18 and elevators and lobby areas. The theatre had
19 cameras in it that we could live monitor
20 activities in there. It was from my experience
21 a much higher level of coverage than you would
22 find in most casino operations.

23 Q To your knowledge did BCLC have the power to
24 impose an obligation that you put cameras in
25 your hotel?

1 A No. That was completely Great Canadian's
2 initiative.

3 Q And what about the parking lot? Did BCLC direct
4 what type of camera system should be there?

5 A They made mention of parking lot cameras but
6 didn't really specify what you needed to do.
7 And we exceeded those minimum standards by
8 putting in pan-tilt-zoom cameras all over the
9 parkades approximately 150 feet apart from each
10 other so that you would have a 75-foot range
11 that -- of coverage through live monitoring by
12 the operators if they needed it, which would
13 provide excellent identification of vehicles and
14 customers around our property.

15 Q Tell me, sir, why did River Rock decide to put
16 in better and more expensive camera systems at
17 River Rock than BCLC required?

18 A That was just part of our corporate culture,
19 ensuring public safety and making sure that our
20 customers were safe, and when we were building
21 out River Rock it was a big concern around
22 security. We had an external parkade parking
23 force that we put into place that provided a
24 large presence out there. We wanted to make
25 sure that customers were comfortable coming to

1 our facility and felt safe at all times when
2 they were there.

3 Q And the camera system presumably would assist in
4 detecting misconduct by patrons that may not
5 otherwise have been discovered; is that true?

6 A Yes. Yes.

7 Q So in engaging in this above required type of
8 system, you're actually potentially endangering
9 or putting at risk profit because you would be
10 removing patrons from being able to gamble?

11 A Yeah. The consideration behind profit, that
12 never came into play.

13 Q There's been a great deal of evidence of
14 meetings between BCLC, GPEB and the RCMP about
15 various money laundering issues and proceeds of
16 crime over the last 10 years, and I'm sure
17 you've heard some of that evidence.

18 A Yes.

19 Q And were you ever invited to any of these
20 meetings?

21 A No, not as a normal -- I mean, we had regular
22 meetings with the lottery corporation at their
23 office around compliance and some initiatives
24 that were going on, but my involvement with the
25 police in meetings on stuff like that was

1 minimal. I know we had a meeting in 2014 when
2 investigations into Paul Jin was launched. I was
3 there to welcome the officers that were involved
4 and explained the protocols and how to get into
5 surveillance. We took them and showed them
6 around the facilitate so they knew their way
7 around if they needed to get access to our
8 assets.

9 Q But you were aware of these types of
10 conversations on money laundering issues
11 occurring without you being there?

12 A Yes, absolutely. I was told -- it was common
13 knowledge that GPEB and BCLC were both engaged
14 with the police and reporting activities that we
15 reported to them through to the police.

16 Q Was BCLC provided daily with cash buy-in
17 reports?

18 A Yes. From what I've been able to gather from
19 reading documents and looking into things, that
20 started in 2012. The cashier record sheets that
21 detailed all the buy-ins and cash-outs at the
22 cash cage by customer, by denomination and by
23 amount were given to the investigators on site
24 daily for review.

25 Q Thank you. Did you ever conclude that large

1 cash buy-ins were in fact proceeds of crime or
2 part of the money laundering scheme?

3 A As far as I know, nobody's been charged or
4 convicted of that.

5 Q I think you testified yesterday -- correct me if
6 I'm wrong -- that at some stage you thought that
7 some of the large cash buy-ins were likely the
8 proceeds of crime. Do I have that right?

9 A Yeah. It's possibly the proceeds of crime. I
10 mean, it was definitely suspicious in the way
11 that it was coming into the casino and the
12 people that were delivering it to the casino.

13 Q And what evidence did you have that that was the
14 case?

15 A Mostly intelligence that we received either from
16 BCLC or GPEB about the character of the people
17 that were involved.

18 Q And was the evidence that you were aware of with
19 respect to potential criminality, was that
20 information put into iTrak?

21 A Sorry, can you say that again, Mark.

22 Q Sure. You talked about various pieces of
23 evidence that you came across which suggested
24 there might be some criminal elements to the
25 large cash buy-ins. Is that right?

1 A Yes.

2 Q And did that information or that evidence that
3 you referred to, was it put into iTrak?

4 A Yes. Well, we gathered evidence and submitted
5 reports, gathered video, pictures,
6 identification, of players that were acting in a
7 suspicious manner wherever possible.

8 Q Would it be fair to say that all the important
9 information you developed or your surveillance
10 department came across was in fact made
11 available in iTrak for review by BCLC?

12 A Yes, absolutely. And I'm sure a lot of it is
13 there today. There's a seven-year requirement
14 on retention of evidence relating to our
15 reports, so ...

16 Q And that information would also be encapsulated
17 generally in Section 86 Reports to GPEB; right?

18 A Yes, always, yes.

19 Q Did you ever see it as compliance's
20 responsibility to determine whether or not large
21 cash transactions were the proceeds of crime?

22 A No. It was our duty to report on any suspicious
23 activity that we observed based on suspicion
24 indicators that are outlined in training from
25 BCLC and ourselves, our compliance department,

1 and we did that.

2 Q Did anyone ever tell you it was your
3 responsibility to investigate money laundering?

4 A No.

5 Q In your opinion did your staff have the
6 experience or expertise to have an in-depth
7 investigation of a money laundering allegation?

8 A No.

9 Q I'd like to move for a minute to your paragraphs
10 in your affidavit on training. At paragraph 25
11 you refer to BCLC training on AML. Did you
12 understand it to be BCLC's obligation to conduct
13 AML training?

14 A Yes.

15 Q And that included training on suspicious
16 transaction indicators; right?

17 A Yes.

18 Q At paragraph 28 you refer to Great Canadian
19 training of supervisory staff, and at
20 paragraph 29 you refer to GCGC training of all
21 staff; right?

22 A Yes.

23 Q And which staff members?

24 A In the GCGC training?

25 Q Correct.

1 A It was supervisory staff from all departments in
2 the casino. We ran through all the regulatory
3 requirements, not just AML, but you know, things
4 around registration, liquor policies, that kind
5 of stuff, privacy as well.

6 Q On the supervisory staff, though, I understood
7 you to say that there's training of other
8 people, is that right, at Great Canadian?

9 A Yes.

10 Q And who were those other people?

11 A That we trained in compliance?

12 Q Yes.

13 A Well, it was mostly the supervisory and up, so
14 floor managers and up that got to training on an
15 annual basis when I left, and it went up to and
16 included the board of directors that we
17 conducted that training for.

18 Q Were employees given training --

19 A Yes.

20 Q -- below supervisory level?

21 A They received the BCLC online training and some
22 in-person training from BCLC. There were times
23 when there were issues on the floor where
24 compliance bulletins would go up in the staff
25 areas identifying certain areas that might have

1 been problematic so that all the staff were
2 aware of their responsibility in those areas.

3 Q Well, if it was BCLC's responsibility to do the
4 training, why did Great Canadian get involved in
5 training?

6 A It would -- we just felt it was our
7 responsibility to, as a compliance department,
8 to ensure that we were going over and above the
9 minimum requirements of training.

10 Q All right. I'd like to move for a couple of
11 minutes, if I may, to Paul Jin. Why were you
12 and your surveillance and compliance departments
13 monitoring him?

14 A Well, he was identified in 2012 as potentially
15 being a loan shark. He was funding players,
16 providing cash to players. We were really
17 working on behalf of BCLC and GPEB and law
18 enforcement in gathering evidence and
19 identifying people that were involved in these
20 transactions, like I've said throughout my
21 testimony. We collected all kinds of evidence
22 around vehicles, plate numbers, photographs of
23 individuals, people's ID, identified them and
24 forwarded that on and created documentation
25 within iTrak who was involved in the activity

1 around the casino.

2 Q You gave evidence about issuing a directive
3 prohibiting buy-ins by patrons who received cash
4 from Mr. Jin or his associates; correct?

5 A Yes.

6 Q And that was after discussions with Mr. Doyle?

7 A Yes.

8 Q Yes. But it was your idea?

9 A Yes. I had a concern, and we needed to address
10 it.

11 Q At the time you made that directive, sir, to
12 your knowledge had Mr. Jin ever been convicted
13 of a money laundering offence or possession of
14 proceeds of crime?

15 A Not that I'm aware of.

16 Q To your knowledge when you issued your
17 directive, had Mr. Jin ever been charged with
18 such offences?

19 A Not that I'm aware of.

20 Q Weren't you potentially reducing Great
21 Canadian's revenue by preventing some VIP
22 patrons from accessing Mr. Jin's cash?

23 A Yes.

24 Q At the time you issued your directive, had
25 either GPEB or BCLC issued a similar directive

1 with respect to cash coming from Mr. Jin or his
2 associates?

3 A No.

4 Q So after you issued your directive, Mr. Jin and
5 his associates were perfectly free to go to
6 other casinos and lend money to patrons or to
7 somehow facilitate cash going to patrons?

8 A Yes. I can't speak for what measures other
9 casino operators might have had in place. I do
10 know that on some circumstances after we had
11 refused the cash at River Rock, it would turn up
12 later that night at one of the other service
13 providers. In fairness to them, they didn't
14 have the information around how that money had
15 been passed to the customer, and they would
16 accept it. BCLC came up with a policy and a
17 method of entering that information into iTrak
18 to prevent that. I think that came out in
19 October of 2016. So that all the casino
20 operators were aware immediately of anybody that
21 had a cash refusal at another location and they
22 couldn't accept that money going forward.

23 Q But the directive that you issued was not
24 applicable to any other casino, was it?

25 A No.

1 Q I'd like to ask you a quick question about
2 source of funds. In your affidavit you give
3 evidence linking the BCLC source of funds
4 requirements to a decrease in cash buy-ins. Do
5 you recall saying that?

6 A Yes.

7 Q Now, when Mr. Kroeker testified, he said that it
8 was difficult to assess the impact of SOF,
9 source of funds, conditions because of other
10 events that were happening at the same time, and
11 these included a worldwide decrease in Chinese
12 table gaming and currency restrictions imposed
13 by the government. Do you have reason to
14 disagree with what Mr. Kroeker said?

15 A A little bit. I mean, those were definitely
16 factors, but there was a pretty linear decrease
17 and customers that had been regular customers
18 not coming back after the institution of those
19 policies, so yes, the world was in a bit of
20 change at that time, but I think the source of
21 funds measures definitely affected River Rock's
22 bottom line.

23 Q Was it the case, sir, that some Asian gamblers
24 only come to River Rock occasionally rather than
25 on a regular basis?

1 A Well, yes, we had regular customers that we
2 would see come in at certain times of year,
3 Harvest Festival, Chinese New Year, the end of
4 the school year, mainly to visit family members
5 that were here. Many of them had children that
6 were going to university. That was the big
7 influx in May. And of course Chinese New Year
8 would go on for two or three weeks, sometime in
9 January and February. It moved around each
10 year. But it was a huge influx of business and
11 we would see people come to town that we hadn't
12 seen for months.

13 Q And that sporadic visiting by VIP patrons,
14 wouldn't that have had impacted the difficulty
15 of assessing the importance or results of the
16 source of funds directives?

17 A Yes. Yeah.

18 Q There's been some evidence about how Great
19 Canadian failed to report some UFTs or LCTs.
20 When you became aware of such omissions, did you
21 investigate the circumstances?

22 A Yes, of course.

23 Q Did you ever conclude, sir, that any such errors
24 were intentional?

25 A No.

1 MR. SKWAROK: All right. Those are my questions,
2 Mr. Ennis. Thank you very much.

3 THE WITNESS: Thank you.

4 THE COMMISSIONER: Sorry. Thank you, Mr. Skwarok.

5 I'll call now on Mr. McFee on behalf of
6 James Lightbody, who has been allocated
7 10 minutes.

8 MR. McFEE: Thank you.

9 **EXAMINATION BY MR. McFEE:**

10 Q Mr. Ennis, in your 29 years with Great Canadian
11 in security and surveillance roles, did you
12 communicate with your colleagues in the security
13 and surveillance departments with other casino
14 providers in British Columbia?

15 A Yes. From time to time, yes.

16 Q And similarly did you communicate with
17 colleagues in security and surveillance
18 departments with gaming entities in other
19 provinces?

20 A Yes. I was a member of the Gaming Security
21 Professionals of Canada. We had communications
22 back and forth amongst different jurisdictions
23 through that association as well as annual
24 meetings.

25 Q And did you also have communications with

1 security and surveillance colleagues in other
2 jurisdictions, such as Las Vegas?

3 A Yes. I regularly attended conferences down
4 there and got to meet a few people on the strip
5 and got some tours of various casino operations
6 down there.

7 Q And did you have similar communications with
8 security and surveillance personnel from other
9 jurisdictions such as overseas?

10 A Yes. Yeah. I had some contacts in Genting and
11 some in Macao.

12 Q And when you attended these industry
13 conferences, were they typically gaming
14 conferences, or were they specific to security
15 and surveillance in the gaming industry?

16 A There were both securities and surveillance
17 specific as well as gaming in general.

18 Q And at paragraph 15 of your affidavit -- and
19 maybe, Madam Registrar, Mr. Ennis's affidavit
20 could be brought up to assist him. Paragraph
21 15, 1-5, please. There we go.

22 You've got it, Mr. Ennis. You have access
23 to it

24 A Yes, I do. Thank you.

25 Q You refer there to the increase in bet limits

1 and the first increase was to \$5,000 per
2 position, and as I understood your evidence you
3 believe that happened in about 2008?

4 A Yes, I think so.

5 Q And then you refer to the limit subsequently
6 raised to allow a player to bet \$100,000 on one
7 outcome of baccarat, so that would be \$10,000
8 per spot?

9 A Yes.

10 Q And did that occur in or about January of 2014?
11 Does that match with your recollection?

12 A That sounds about right, yes.

13 Q And then if you look at paragraph 17, please, it
14 says:

15 "During this period I viewed the issue of
16 large cash transactions ..."

17 Do you have that?

18 A Yes, I do.

19 Q So is the period you're referring to there the
20 period of 2008 to 2014, where the bet limits --

21 A Yes.

22 Q -- were increasing?

23 A Yes.

24 Q You say:

25 "During this period I viewed the issue of

1 large cash transactions as a loan sharking
2 problem and a public safety concern."

3 And you go on:

4 "I, GCGC, and the industry generally did
5 not view the large cash transactions as a
6 money laundering problem because the
7 people bringing this cash into the casino
8 were gambling with it and often losing
9 it."

10 When you refer to GCGC, are you referring to
11 your fellow executives at GCGC?

12 A Yes.

13 Q And you say "the industry generally." Are you
14 referring to the industry in Canada or the
15 industry internationally?

16 A In British Columbia, I think.

17 Q And so were you basing this statement on the
18 contacts you had with your colleagues employed
19 in security and compliance with other casino
20 providers in British Columbia?

21 A Yes.

22 Q And so that was your clear perception as to the
23 industry viewpoint that large cash transactions
24 weren't being viewed as a money laundering
25 problem at the time?

1 "After GPEB was established, BCLC began
2 taking on functions that I believe were
3 rightfully GPEB's responsibilities."

4 Just to put that in context, do you recall in
5 2005, 2006, BCLC assigned investigators to the
6 River Rock Casino?

7 A Yes, I do.

8 Q And to be clear, those BCLC investigators were
9 onsite and had their own office space in the
10 casino?

11 A Yes, they did.

12 Q And was it your observation that these onsite
13 BCLC investigators established good working
14 relationships with the casino staff?

15 A Yes, very good working relationships.

16 Q And I take it from your observations that was in
17 large part because they were there on a
18 day-to-day basis?

19 A Yes, they were a benefit to the operation.

20 Q And was it also your observation that the onsite
21 BCLC investigators established good working
22 relationships with the police that attended the
23 casinos?

24 A Yes, they did. They were -- yes.

25 Q And was there a benefit to have these onsite

1 BCLC investigators and that they provided a real
2 time presence to allow review of unusual or
3 suspicious financial transactions?

4 A Yes, it was.

5 Q And in that context, these onsite BCLC
6 investigators could review surveillance of
7 reported incidents on a very timely basis?

8 A Yes, they had access to the camera systems. I
9 know a couple -- one in particular, Steve
10 Beeksma was a former employee of ours and he
11 used to conduct even his own investigations
12 through video review from time to time.

13 Q And you and your staff gave these onsite BCLC
14 investigators ready and almost instant access to
15 the surveillance records if they asked for it?

16 A Yes, of course. They even had a setup in their
17 office where they could view cameras on the
18 floor.

19 Q And just in contrast, I mean, how frequently
20 were GPEB investigators in the casino? Were
21 they ...

22 A They would come in by, you know, maybe weekly.
23 Sometimes they would come in more than that. It
24 depended on the investigator. Some would stop
25 by daily; others would come weekly to pick up

1 reports. One of the challenges with GPEB was
2 they didn't have access to iTrak, so they had to
3 come on site to get followup information for the
4 Form 86s that we sent.

5 Q But to state the obvious, the BCLC onsite
6 investigators were at the casinos much, much
7 more frequently than the GPEB investigators?

8 A Oh, yes. When the GPEB investigator would come
9 by, they'd be there for about an hour or so.

10 Q Did you see the GPEB investigators conduct
11 onsite investigations at the casinos?

12 A Not regularly.

13 Q And when you made the statement in paragraph 80
14 that after GPEB was established BCLC began
15 taking on functions that you believe were
16 rightfully GPEB's responsibilities, did it
17 appear to you that that was occurring because no
18 one else, including the GPEB investigators,
19 appeared to be conducting onsite investigations
20 on a regular basis at the casinos?

21 A Yes, you could attribute it to that. Like I
22 said yesterday, I think it was a resourcing
23 issue. BCLC was much better resourced than GPEB
24 was at the time. But somebody needed to do it,
25 so ...

1 Q There seemed to be a gap, somebody needed to do
2 it, and from your observations BCLC
3 investigators stepped in and did it; is that
4 fair?

5 A That's a fair statement.

6 MR. McFEE: Okay. Those are my questions for you.

7 Thank you.

8 THE COMMISSIONER: Thank you, Mr. McFee.

9 I'll now call on Ms. Peddle on behalf of
10 Robertson Kroeker, who has been allocated
11 15 minutes.

12 MS. PEDDLE: Thank you, Mr. Commissioner.

13 **EXAMINATION BY MS. PEDDLE:**

14 Q Mr. Ennis, can you hear me okay?

15 A Yes, I can, thank you.

16 Q You gave evidence yesterday about GCGC's
17 compliance department and how it's expanded
18 significantly in recent years. Do you recall
19 that?

20 A Yes.

21 Q Am I right that there's now a VP of Compliance
22 per region, so Atlantic, Ontario and the west?

23 A Yes, that's correct.

24 Q And there's also additional positions, a chief
25 compliance officer, a chief privacy officer,

1 legal counsel, new compliance officers and
2 analysts?

3 A Yes, that's correct.

4 Q And am I right that these positions didn't exist
5 at the time that Mr. Kroeker was VP of
6 Compliance?

7 A Yes, you're correct.

8 Q So at the time that Mr. Kroeker held that role,
9 VP compliance handled all facilities nationally
10 and some in the United States?

11 A Yes. Yep.

12 Q So Mr. Kroeker wasn't just focused on GCGC
13 facilities in BC?

14 A No. No. We didn't really have a presence in
15 Ontario until just after Mr. Kroeker left, but
16 we had other casinos in other jurisdictions that
17 he was responsible for.

18 Q Thank you. Yesterday you gave evidence that
19 GPEB generally favoured greater reporting while
20 BCLC's view was that more suspicious indicators
21 needed to be present before a transaction should
22 be reported. Do you recall that?

23 A Yes.

24 Q Is it fair to say that FINTRAC STR requirements
25 and Section 86 Reports, which are made to GPEB,

1 engage different thresholds?

2 A Absolutely.

3 Q In other words, the requirements aren't
4 identical?

5 A They're identical?

6 Q They're not identical?

7 A No, no, they're not identical. Yes.

8 Q So would you agree that if BCLC and GPEB had
9 different positions that may be informed by
10 these differing requirements?

11 A Yes, that's reasonable.

12 Q You gave evidence yesterday and a bit today that
13 GCGC decided to stop accepting cash from Mr. Jin
14 and known associates in 2016. Do you recall
15 that?

16 A Yes.

17 Q And after issuing that directive, BCLC
18 investigators advised GCGC casino staff that it
19 was not necessary to refuse these transactions?

20 A They said that it wasn't a BCLC policy. They
21 didn't say it wasn't necessary. That was our
22 decision.

23 Q Okay. And you're aware that in September 2015
24 BCLC was conducting interviews and had their
25 sourced-cash condition program underway?

1 A Yes.

2 Q And that included persons known to receive cash
3 drop-offs from Mr. Jin?

4 A Yes.

5 Q And you acknowledged in response to a question
6 from Mr. Skwarok that in 2016 BCLC issued a
7 directive to service providers not to accept
8 cash when any suspicious behaviour is observed;
9 is that right?

10 A It was more along the lines of if it was
11 reported that it had been refused at another
12 casino, they couldn't accept it. So if River
13 Rock reported or refused a transaction, the
14 transaction wouldn't drive over to, say,
15 Edgewater and buy in there with it. They would
16 have to look at iTrak, see that it was refused
17 and refuse it themselves.

18 Q And so you're not aware of another direction
19 from BCLC to service providers not to accept
20 cash when any suspicious behaviour is observed
21 in 2016?

22 A No, I'm not.

23 Q Okay. In a response to questions from
24 commission counsel, you said that BCLC told you
25 that GCGC didn't have to provide information to

1 GPEB. Do you recall giving that evidence?

2 A Yes.

3 Q Are you aware that GPEB was always permitted to
4 access these reports by request?

5 A That wasn't what I was -- there was an issue
6 between BCLC and GPEB around AML reports and
7 privacy concerns that they needed to sort out on
8 their own. At one point they tried to get us to
9 sort it out for them, and I refused to do that
10 and told them that if GPEB asked for a report,
11 we would give it to them.

12 Q And you agree BCLC never directed GCGC not to
13 provide the information to GPEB when it was
14 requested?

15 A I'll say no to that.

16 MS. PEDDLE: Thank you very much, Mr. Ennis. Those
17 are my questions.

18 THE COMMISSIONER: Thank you, Ms. Peddle.

19 Anything arising, Mr. McFee?

20 MR. McFEE: Nothing arising. Thank you,
21 Mr. Commissioner.

22 THE COMMISSIONER: Mr. Skwarok.

23 MR. SKWAROK: No, sir. Thank you.

24 THE COMMISSIONER: Mr. Stephens.

25 MR. STEPHENS: Yes, Mr. Commissioner, I do have one

1 item. Thank you.

2 **EXAMINATION BY MR. STEPHENS:**

3 Q Mr. Ennis, you recall you've had some questions
4 from Ms. Peddle and Mr. Skwarok about a
5 directive of BCLC regarding suspicious cash
6 buy-ins?

7 A Yes.

8 Q Sorry, we're just -- Mr. Smart is my wing man
9 here and just dealing with the technicalities.

10 Madam Registrar, I'm wondering if you could
11 pull up exhibit 78, which is Mr. Beeksma's
12 affidavit, tab M., as in Michael. And scroll
13 down to that. And if you could just scroll --
14 thank you very much.

15 And can you see that okay, Mr. Ennis?

16 A Yes, I can.

17 Q So that's an October 7, 2016 document re refuse
18 cash buy-ins by site directive to all service
19 providers?

20 A Yep.

21 Q And you'll see in that first paragraph it
22 relates to establishing a protocol to ensure a
23 consistent approach in dealing with patrons that
24 have been denied a cash buy-in by a service
25 provider due to suspicious activity, and it says

1 that:

2 "It's the expectation of BCLC as per the
3 BCLC AML online training course that when
4 a patron is observed conducting a cash
5 buy-in and suspicious behaviour is
6 observed by staff, that buy-in should be
7 refused and a UFT file should be created
8 to document the attempted buy-in."

9 Do you see that?

10 A Yes, I do.

11 Q So you'll agree with me that that is a directive
12 to all service providers to refuse --

13 A Yes, I'll stand corrected on that, yes.

14 Q Thank you. But this is probably what you were
15 also averting to in your evidence in regard to
16 having a harmonization amongst service providers
17 coordinated by BCLC so that if the refusal was
18 done at the River Rock, say, it would be
19 operationalized so that it would happen at all
20 casinos; is that --

21 A Yes.

22 Q I think that's what you were referring to.

23 A Yes, that's correct.

24 Q And this occurred in October 7th of 2016;
25 correct?

1 A That's correct.

2 MS. PEDDLE: Thank you, Mr. Ennis. Thank you,
3 Mr. Commissioner. That's my question.

4 THE COMMISSIONER: Thank you, Mr. Stephens.

5 Ms. Chewka?

6 MS. CHEWKA: Nothing arising, Mr. Commissioner.

7 THE COMMISSIONER: Thank you. And Mr. McCleery.

8 **EXAMINATION BY MR. McCLEERY:**

9 Q Just one brief matter to address, Mr.
10 Commissioner.

11 Mr. Ennis, my friend Mr. Stephens for BCLC
12 asked you some questions about your observations
13 and experience with gaming in Ontario. Do you
14 recall those questions?

15 A Yes.

16 Q During the period of time that you were working
17 with Great Canadian properties in Ontario were
18 you generally aware of the volume of cash
19 buy-ins in those casinos?

20 A Some of the other operations were much larger
21 than the ones that we acquired. We didn't have
22 table game operations in the GTA when we first
23 acquired it, so until late 2018, early 2019, we
24 weren't having the huge table play that they
25 were -- that we were seeing here. Other service

1 providers did, but we didn't.

2 Q So fair to say that in 2015 at least in the
3 casinos that Great Canadian operated, it was --
4 you would very rarely, if ever, see six-figure
5 cash buy-ins?

6 A Yes, that's correct.

7 Mr. McCLEERY: Thank you. Mr. Commissioner, those
8 are my questions. I did want to raise, I know
9 Mr. Ennis's counsel is on the call. I think we
10 had some previous discussions that he may or may
11 not want to put questions to Mr. Ennis. I just
12 thought I'd raise it with you to see if
13 Mr. Sorochan would like to ask questions.

14 THE COMMISSIONER: Yes. Mr. Sorochan.

15 MR. SOROCHAN: As it turns out, the questions that I
16 was going to ask have been dealt with by the
17 other parties, so I have nothing further to add.

18 THE COMMISSIONER: All right. Thank you,
19 Mr. Sorochan. And thank you, Mr. Ennis. The
20 commission is appreciative of the time you've
21 taken to detail your experience and your
22 insights into the gaming industry in British
23 Columbia over the past several decades. You're
24 now excused from further testimony. Thank you.

25 THE WITNESS: Thank you, Mr. Commissioner.

1 **(WITNESS EXCUSED)**

2 THE COMMISSIONER: Mr. McGowan, I gather we have
3 another witness and we'll need to stand down to
4 ensure that he is brought online. I'm going to
5 suggest 10 minutes for that.

6 MR. MCGOWAN: Yes, that's appropriate.

7 THE REGISTRAR: The hearing is stood down for
8 10 minutes until 10:25 a.m.

9 **(PROCEEDINGS ADJOURNED AT 10:15 A.M.)**

10 **(PROCEEDINGS RECONVENED AT 10:25 A.M.)**

11 THE REGISTRAR: Thank you for waiting. The hearing
12 is now resumed. Mr. Commissioner.

13 THE COMMISSIONER: Thank you, Madam Registrar. Yes,
14 Mr. McGowan.

15 MR. MCGOWAN: Yes, Mr. Commissioner. The next
16 witness will be Mr. Bud Smith.

17 **BUD SMITH, a witness**
18 **called for the**
19 **commission, sworn.**

20 THE REGISTRAR: Please state your full name and spell
21 your first name and last name for the record.

22 THE WITNESS: My full name is Stuart Douglas Boland
23 Smith. That is spelled S-t-u-a-r-t
24 D-o-u-g-l-a-s B-o-l-a-n-d S-m-i-t-h.

25 THE REGISTRAR: Thank you.

1 **EXAMINATION BY MR. MCGOWAN:**

2 Q Mr. Smith, I'm going to start by asking you a
3 few brief questions about your background. You
4 hold a law degree from the University of British
5 Columbia?

6 A Yes.

7 Q You're a member of the Law Society of British
8 Columbia since 1975?

9 A Yes.

10 Q And you were appointed Queen's counsel in 1988?

11 A Yes.

12 Q You practised law for a period of time in
13 British Columbia?

14 A Yes.

15 Q And then proceeded to be an MLA for the area of
16 Kamloops from 1986 until 1991?

17 A Yes.

18 Q You held cabinet postings from 1988 to 1991,
19 including as Attorney General of this province?

20 A Yes.

21 Q And you have served over the years and continue
22 to serve as a director and officer for a good
23 number of corporations?

24 A Yes.

25 Q And the one that's most closely connected to our

1 mandate was your posting as a member of the
2 board of the British Columbia Lottery
3 Corporation from 2012 until 2018?

4 A Correct.

5 Q And you chaired that board from 2013 till 2018;
6 correct?

7 A Yes.

8 Q You don't have any law enforcement experience?

9 A No.

10 Q And you have no particular expertise in -- and
11 didn't at the time you were on the board in
12 proceeds of crime or money laundering?

13 A Correct.

14 Q And in order to assist the commission, you have
15 prepared an affidavit to which you have appended
16 questions that commission put to you in writing
17 and your written answers to those questions?

18 A Yes.

19 MR. MCGOWAN: If we could just pull up that
20 affidavit, Madam Registrar.

21 Q And this is a copy of that affidavit?

22 A Yes.

23 MR. MCGOWAN: Thank you. If that could be the next
24 exhibit, Mr. Commissioner.

25 THE COMMISSIONER: Yes, very well.

1 THE REGISTRAR: The number is 537, Mr. Commissioner.

2 THE COMMISSIONER: Thank you.

3 **EXHIBIT 537: Affidavit no. 1 of Stuart Douglas**

4 **Boland Smith sworn January 22, 2021**

5 MR. MCGOWAN:

6 Q Mr. Smith, how is it you came to be on the board
7 of the British Columbia Lottery Corporation?

8 A I was invited to submit my name to an
9 organization which vets people to be invited to
10 serve as a director of various organizations for
11 the provincial government. And I did that, and
12 in due course I was called and asked some
13 questions about my background and things that I
14 might have done over the years and eventually I
15 received a call from that organization to join
16 the board of BCLC.

17 MR. MCGOWAN: Thank you. Madam Registrar, we can
18 pull the affidavit down now.

19 Q And I wonder if you can just briefly explain to
20 the Commissioner what the composition of the
21 board was.

22 A I'm just trying to think. There was changes on
23 the board when I -- shortly after I went on, so
24 I believe there were eight, maybe nine people on
25 the board, and I can't tell you all their names

1 off the top of my head right now. I would have
2 to go back and look.

3 Q Are you able to recall in a general way what
4 their backgrounds were?

5 A Well, people who -- we had a member of the --
6 another member of the Law Society of British
7 Columbia. In fact she had once been the
8 treasurer. We had people who -- a person at
9 least who was a partner in one of the big law --
10 or at least accounting firms. We had a person
11 who had skills in high tech areas who I believe
12 worked with Telus. We had a couple of people
13 who were in business, one in the property
14 development business and sales and one who was,
15 I believe, in the automobile business.

16 Q Thank you. To your knowledge did any of the
17 board members have law enforcement or anti-money
18 laundering experience or training?

19 A Not to my knowledge, no.

20 Q Okay. How often did the board meet?

21 A I think the maximum we met over the time I was
22 on it would be eight times during the year.

23 Q And --

24 A Typically we would meet -- we met five times, I
25 think, as a matter of course, and then there

1 were additional meetings that might be by phone
2 or we might -- or our annual get-together for
3 strategic planning.

4 Q Okay. And what did you understand the mandate
5 of the board to be?

6 A Well, the mandate -- the board is a governance
7 board. It is distinct from an executive board,
8 meaning that the board's role is not to be
9 engaged in detailed prescriptive work with
10 management -- alongside management. The board's
11 role is one of oversight. The board's role is
12 one of developing strategic planning annually
13 and then working to ensure that the strategic
14 plan is met and executed.

15 Q Okay. Who within the British Columbia Lottery
16 Corporation reported to the board?

17 A The chair, or at least the CEO largely, but in
18 our meetings all of the executives were present,
19 the general counsel would be present, corporate
20 secretary and so on, and all of the executives
21 had a role in reporting to the board. In fact
22 when you look at the agendas for board meetings,
23 there was extensive reporting that went to
24 the -- directly to the board, and that would
25 come from a CEO sometimes, but more frequently

1 it would come from the Vice President, who was
2 particularly responsible to the board.

3 And then during our board meetings as well,
4 we had -- almost all the board meetings I was
5 in, we had a guest who stayed in our board
6 meetings who was the deputy auditor general for
7 the Province of British Columbia.

8 Q Okay. Did any members of government or I'm
9 thinking deputy minister or the like attend
10 these meetings?

11 A Occasionally. I don't recall the deputy
12 minister attending, but we would occasionally
13 have someone from government like an ADM or
14 something would be at the meeting. They
15 wouldn't sit throughout the whole meeting; they
16 would be there for some specific purpose.

17 Q Did any representative of the Gaming Policy and
18 Enforcement Branch attend the meetings?

19 A I don't recall that, no.

20 Q As the chair, did you have any roles or
21 responsibilities that were distinct from other
22 board members [indiscernible]?

23 A Sorry?

24 Q Aside from chairing the meetings.

25 A Oh, okay. Not particularly, no. I liaised

1 obviously with the President and CEO, but no, I
2 don't think there were any roles that I had that
3 were distinct from other board members
4 particularly.

5 Q Okay. Did the board provide direction to the
6 CEO of the British Columbia Lottery Corporation?

7 A Yes. In the sense that the -- you know, we
8 would develop our strategic plan and then
9 through its execution at our meetings we would
10 ask about certain things being done, we'd ask
11 why they weren't done perhaps, and usually the
12 direction that we would give to the board, or at
13 least to the CEO, was more in the sense of a
14 consensus that would develop and then we would
15 say yes, we think that's what you should -- you
16 know, that's what we would do. We weren't as I
17 say -- we weren't a management board. We didn't
18 direct the staff, including the CEO in that
19 sense.

20 Q Did the board provide written direction to the
21 CEO or others at the lottery corporation?

22 A No.

23 Q I'd like to ask you about the board's reporting
24 relationship with government. Did the
25 board report to -- who did the board report to?

1 A Well, the management reported to the board. We,
2 to the extent that we report to government,
3 would report typically through the ADM, who was
4 designated by our minister responsible or we
5 would report to the minister directly. And most
6 of those reports were in writing.

7 Q Okay. Did you have meetings with the minister?

8 A Yes.

9 Q Or [indiscernible] in government?

10 A Yes.

11 Q How frequently?

12 A Oh, it's hard to say. I would be surprised if I
13 had a meeting once a month. It would be less
14 than that. I'm certain of that. They weren't
15 frequent is the point.

16 Q Okay. You received an annual mandate, the board
17 received an annual mandate letter from
18 government?

19 A That's correct.

20 Q You've attached one example as appendix A to
21 your witness statement. Do you recall that?

22 A Yes. Okay. Yep.

23 Q I'm just going to ask you a couple of general
24 questions. It may not be necessary for you to
25 go to the letter, but I certainly am happy to

1 take you there if we need to.

2 One of the directions in the mandate letter
3 was that the lottery corporation that the board
4 optimize the corporation's financial
5 performance.

6 A Right.

7 Q Was that a direction that routinely appeared in
8 the mandate letters from government
9 [indiscernible] direction?

10 A I don't think so. But the -- it's obviously
11 implicit in any -- frankly in any business that
12 you -- that you do that, and in that particular
13 letter, as you'll see, there's a number of
14 references to the taxpayer accountability
15 principles, which were largely focused on making
16 sure you got value for money on the things that
17 you were doing that you're expending.

18 Q Right. One of the other directions in this
19 letter that relates to money laundering, and it
20 directs the board to create solutions, actions
21 and solutions to prevent money laundering in
22 British Columbia gaming facilities. Was that a
23 direction that routinely appeared in mandate
24 letters during your time on the board?

25 A I don't think those words specifically did.

1 A I think Mr. de Jong was the chair when I -- or
2 at least was the minister when I became chair.

3 Q Okay.

4 A I believe so.

5 Q Other than Mr. de Jong, have you had meetings
6 with any cabinet ministers in your capacity as
7 chair of the lottery corporation's board?

8 A I met with Minister Eby. I can't think of any
9 other ministers that I would have met with
10 during that time. I met with ministers but on
11 other matters unrelated to lottery, just to make
12 that clear. I have met with other ministers. I
13 chaired a board in Prince Rupert that dealt with
14 transportation issues and I met frequently with
15 the Minister of Transportation in connection
16 with that board.

17 Q I'm talking about meetings related to gaming.

18 A No, I just wanted to make it clear. The answer
19 is no, I didn't meet with other ministers.

20 Q Did you have occasion to meet with Minister
21 Coleman, to your recollection, on matters
22 related to gaming or the lottery corporation?

23 A I don't recall that. I met with him in Prince
24 Rupert actually in connection with LNG, and I
25 recall spending a bit of time in the Air Canada

1 lounge, where I spent too much of my life,
2 actually, waiting for a plane to go somewhere
3 and he was doing the same thing. But beyond
4 that, I don't recall meeting with him frankly at
5 all other than at political events.

6 Q The meeting you had with him in the airport, did
7 you discuss matters related to gaming in the
8 province?

9 A I don't think so. Although I may have asked him
10 about the events that occurred in Surrey when
11 the lottery corporation was trying to -- had got
12 approval, at least they thought they got
13 approval from the Surrey city to develop a
14 facility there, and it turned out that that
15 wasn't the case.

16 Q Okay. You make reference in your witness
17 statement, you say:

18 "On two occasions the Chair initiated
19 direct conversations with elected persons
20 respecting BCLC."

21 What were those two occasions?

22 A Well, one of them was with Mr. Eby, and that
23 would be before he was a minister of the Crown.

24 Q If you're looking for the reference where you
25 say that in your statement, it's on page 3,

1 second paragraph under the heading numbered 2.

2 A Right. I met with Minister Eby to -- or at
3 least in his capacity as the opposition critic
4 for BCLC. I initiated that because I wanted to
5 make sure -- one of the things that I've learned
6 because of my various things I've done in my
7 life is that in dealing with Crown agencies or
8 Crown corporations, it's useful to keep the
9 opposition critic in the loop, so to speak, of
10 information for a couple of reasons. One, they
11 may become the minister, in fact; and two, it
12 makes them better informed so that they
13 don't -- when they're asking questions and
14 they're dealing with their responsibilities in
15 the legislature, they just have a better level
16 of information.

17 So I initiated and met with Mr. Eby and
18 asked him if he wanted to have a briefing
19 session with our executive and if he wanted to
20 go through the facility in Kamloops, for
21 instance -- that is where the computer,
22 heavy-duty computer equipment is -- and he said
23 he would talk to some of his colleagues about
24 that and get back to me, which he did, and that
25 meeting was then set up in Kamloops where he

1 came and was briefed.

2 All of the executives of the lottery
3 corporation were there, the senior executive
4 team, and I attended the meeting as well. And
5 he was given a full briefing on all sorts of
6 things. I knew that he was interested in the
7 Parq development in downtown Vancouver just from
8 sort of general information, and so I made sure
9 that questions were asked about that. He didn't
10 ask questions about it, so I asked questions for
11 him so that it would be all on the table. And
12 he talked as well about having gone to the Great
13 Canadian casino facility out in Richmond, and he
14 went through the compliance section of the
15 casino particularly, was given a tour there, and
16 how impressed he was at, you know, the level of
17 surveillance and all that sort of thing that
18 goes on inside the casino.

19 Indeed, I remember him saying at that
20 meeting were he in the business of money
21 laundering, which clearly he wasn't, that he
22 didn't think he'd go to a casino as his first
23 choice as a place to undertake that activity.

24 The second time I initiated a call with a
25 minister, it was with the minister responsible,

1 and that was -- that was when the then CEO of
2 BCLC advised me one evening after dinner that he
3 was departing, and so I -- obviously the
4 minister had to know that, so I tracked him down
5 and told him.

6 Q Okay. The first instance you told us about
7 where you had a meeting with then opposition
8 critic Eby, what year was that? Roughly, if you
9 can remember.

10 A Yeah. Let's see. He was elected in 2013, I
11 think, wasn't he? Probably 2014 maybe. I'm not
12 sure, to be truthful about it.

13 Q Okay. That's fine. And the second instance,
14 was that the departure of Mr. Graydon?

15 A Yeah.

16 Q Thank you.

17 A Actually, the meeting with Mr. Eby, I think, was
18 in 2015.

19 Q When did you first become aware of concerns
20 about suspicious cash transactions in British
21 Columbia casinos?

22 A Oh, goodness knows.

23 Q Let me maybe ask it this way: is it something
24 that you came to be aware of early in your
25 tenure as a board member?

1 A Well, I guess there's two things. I
2 misinterpreted what you're asking me. Just
3 generally was I aware that there would be things
4 going on in casinos that would be inappropriate
5 or in gaming in British Columbia? That would go
6 back to probably the 1980s when -- you know,
7 when casinos were first organized.

8 I think it's really important to understand
9 this, if I can just digress from your question
10 for a second. Gaming and government has had a
11 difficult relationship for many years in this
12 province, and I've been around it for quite a
13 while. When Canada amended the *Criminal Code* to
14 allow gaming at all, there was a vote in the BC
15 legislature to decide whether to do that, and it
16 was a free vote, and if you know anything about
17 the BC legislature, you don't often have free
18 votes. It's one of the more partisan
19 environments in the world. And the reason it
20 was a free vote is because -- and I'll just name
21 four names that will give you some idea why it
22 was a free vote. Each caucus was divided on the
23 issue. And four people who voted against it
24 were Premier Bill Bennett, opposition leader
25 David Barrett, Deputy Premier Grace McCarthy and

1 human resources critic Norman Levy. So all of
2 them very prominent within their own -- within
3 their own caucus, obviously, and were not in
4 favour of going -- developing gaming at all.

5 Then we moved along throughout that
6 continuum where there were, I think, bingo halls
7 were basically the first thing that went,
8 besides just a lottery itself, and there was
9 great discussion about whether or not the funds,
10 the proceeds should go in the general revenue
11 fund. And they didn't up until probably the
12 1990s. And so there was a very -- there was
13 considerable concern about having gaming at all,
14 for philosophical reasons and all kinds of other
15 reasons in British Columbia.

16 So in the course of that, when I was the
17 principal secretary to the premier, there was a
18 decision taken to unwind British Columbia from
19 being part of the Western Canada lottery and set
20 up its own lottery in British Columbia, and part
21 of my responsibility was to make sure that the
22 headquarters for that new BC Lottery Corporation
23 was established in Kamloops. And throughout
24 that I was more familiar with just how much
25 concern there was about the -- how much

1 internally there was disagreements about whether
2 to have gaming generally or not. And some of
3 the things that were advanced of being opposed
4 to having gaming and establishing, for instance,
5 the little casinos that were established, I'll
6 call charity casinos, people, MLAs talked about
7 this was going to attract unsavoury characters
8 and the Mafia and all this sort of stuff. This
9 was openly discussed. So when you ask me when
10 was I aware that there might be something that
11 you would have to be concerned about inside the
12 gaming business in British Columbia, it goes
13 back probably to the late 1970s when I was first
14 aware of that. If you're asking me, on the
15 other hand, when did I become aware of some of
16 the more detailed things that were going on with
17 BCLC when I joined the board, then that would be
18 almost immediately because we had extensive
19 briefings from the -- from our staff, from our
20 management, on all the subjects, all the
21 reporting subjects that I referred to earlier as
22 our responsibilities.

23 One of those always was in relationship to
24 compliance. And initially that would have been
25 Brad Desmarais, and then subsequently that would

1 have been Rob Kroeker, who was -- those two
2 people were the VPs during that time. And so in
3 part of those reports you would get information
4 about, for instance, the incidents of Suspicious
5 Transaction Reports and all of that sort of
6 thing. So your awareness, then, was basically a
7 function of the reporting that went on at each
8 meeting we attended as directors.

9 Q Was the board advised by the executive of the
10 lottery corporation in 2012 or 2013 that by that
11 time hundred thousand dollar cash buy-ins
12 primarily in \$20 bills had become commonplace at
13 Lower Mainland casinos?

14 A I don't know that that detail was put to the
15 board. I don't want to say -- it probably was,
16 but I don't recall it specifically.

17 Q Okay. Were you advised by Mr. Graydon or
18 Mr. Lightbody that from at least 2010
19 investigators at the Gaming Policy Enforcement
20 Branch believed that the cash -- much of the
21 cash being used to buy into British Columbia
22 casinos was proceeds of crime and that British
23 Columbia casinos were being used to facilitate
24 the laundering of proceeds?

25 A No, not in that detail for sure. No.

1 Q Were you given any information -- was the board
2 given any information by the lottery corporation
3 executive about the manner in which cash was
4 being presented at the casinos and whether it
5 was consistent or inconsistent with the manner
6 in which cash was presented from a bank?

7 A You would have to translate. I'm not sure what
8 you're asking me.

9 Q Were you told that frequently cash buy-ins were
10 being brought in in bricks of \$10,000 wrapped in
11 elastic bands in \$20 denominations?

12 A No, but we were certainly told that there was --
13 that there was -- as part of the suspicious
14 transaction reporting that it related to cash
15 and cash being brought in in fairly significant
16 quantities. We were aware of that, yeah.

17 Q Were you advised by the lottery corporation
18 executive that it had become a somewhat regular
19 occurrence for high-end patrons to either have
20 cash delivered to them at the property or to
21 leave the property for a brief period of time,
22 often in the evening hours or early morning
23 hours returning shortly thereafter with
24 additional cash to buy in with?

25 A For certain the issue of people leaving we were

1 told about and told about for a couple of
2 reasons. One, there was a cash facilitator, I
3 think was the word that is used, who was banned,
4 barred from the casinos, a man by the name of
5 Paul Jin, who we were aware of and reported in
6 fact to GPEB and to the police and asked to have
7 him dealt with. So certainly that was
8 discussed. And also the whole exercise of
9 people leaving at night to go out and get cash
10 was a concern for a number of reasons, not the
11 least of which was their safety for, you know,
12 hunting down cash and then coming back into the
13 casino or going through the parking lot or
14 whatever. So yeah, we were aware of it.

15 Q Thank you. And had you as chair of the board
16 formed a view during your time on the board
17 about the likelihood that these funds that were
18 being used to buy in, the cash being used to buy
19 in was proceeds of crime?

20 A I don't know that specifically, but I certainly
21 wasn't immune to that thought, that's for sure.
22 But there was never -- the information that we
23 would get didn't quantify in that way, you know,
24 where this was coming from. There's money --
25 private money organizations out there that were

1 loaning money and providing money and so on, and
2 there's all kinds of ways where the cash could
3 be coming from, and one of them obviously could
4 be proceeds of crime.

5 Q Were you given information about the volume and
6 magnitude of cash buy-ins as it was developing
7 over the years, say from 2012 to 2015 or '16?

8 A Oh, absolutely. I mean, you have to understand
9 that in British Columbia originally you couldn't
10 use anything but cash in the gaming business in
11 British Columbia for, I think, about 20 years.
12 So everyone who participated in gaming in
13 British Columbia as a matter of law had to use
14 cash, and that wasn't foolishness on the part of
15 the government; that was a well-considered
16 policy. People had concerns about people
17 overextending themselves and being addicted to
18 gaming and all those sorts of things, and there
19 was a view that if you use credit cards or such
20 for that purpose that you might get yourself
21 into trouble financially. And so you could only
22 use cash. The assumption under the policy was
23 that cash would be after-tax money, and it would
24 be discretionary money. And so the policy in
25 British Columbia was that you had to use cash.

1 And that then -- when you put that next door to
2 the other thing that was going on, which was to
3 allow larger betting limits and that sort of
4 thing going on, by the time I came on the board,
5 I think the betting limits were something in the
6 neighbourhood of \$100,000 or something, and if
7 you trained people that they could only use cash
8 for 20 years and you're relying on betting
9 limits of \$100,000, then obviously there would
10 be a fair amount of cash coming into the
11 facilities. That just goes without -- that's
12 just the way it was.

13 Q Did you as chair of the board have a view as to
14 the advisability of increasing bet limits to
15 that magnitude in the context of a regime that
16 was largely cash based?

17 A It actually didn't make any difference to me
18 because my role at that point was to deal with
19 the mandate that was given to the organization,
20 and the limits were there when I came on. I
21 mean, my opinion about whether they were good,
22 bad or indifferent wasn't sought when I came on.
23 Those were the limits, so that's what we were
24 dealing with.

25 Q The mandate as directed by the mandate letter

1 also included a direction to address money
2 laundering concerns; is that fair?

3 A Absolutely. And there were two things that go
4 kind of hand in hand, to just follow on your
5 question, is to address money laundering using a
6 risk-based approach, which is to be contrast
7 with a prescriptive approach of a fixed amount.
8 And the second thing was, and I think equally
9 important, was that we work to try to have
10 non-cash alternatives used more frequently. And
11 those two things ran parallel, and the
12 corporation spent a lot of time dealing with
13 them, absolutely.

14 Q And the corporation's response to suspicious
15 cash and money laundering concerns really was
16 these cash alternatives, wasn't it?

17 A That was the most important thing, yeah, was to
18 get rid of cash if you could, cash alternatives.

19 Q The patron gaming fund account was one of those
20 cash alternatives?

21 A That's correct.

22 Q Did you as the chair of the board understand
23 that the use of the patron gaming fund account,
24 during your time on the board at least, was
25 voluntary?

1 A Yes. Yes.

2 Q And were you advised --

3 A By that meaning that I didn't force someone to
4 have a patron gaming account. Is that what
5 you're asking me?

6 Q Yes. The patron could elect whether to adopt
7 the patron gaming fund account and buy in with a
8 bank draft --

9 A Yeah.

10 Q -- or transfer or they could elect to continue
11 to buy in with \$20 bills?

12 A Yes, that's my understanding.

13 Q Okay. And what were you advised as to the
14 extent to which the high-end players were making
15 use of these player gaming accounts or whether
16 since the introduction for a number of years
17 following they continued to buy in with cash?

18 A Well, those are two separate things. There was
19 a growth in the patron gaming accounts I think
20 for the high-end players. And I believe the
21 high-end players were gradually moving away from
22 cash to cash alternatives, but I didn't get into
23 the -- you know, into the weeds too far on that.

24 Q Was the board advised that from the time you
25 joined the board through 2015 the magnitude and

1 frequency of cash buy-ins increased year over
2 year?

3 A Well, we knew that, yes, from the suspicious
4 transaction documentation that we got in the
5 reports. There was quite a lot of detail in the
6 suspicious transaction, at least from our
7 reports of suspicious transactions. They
8 tracked up. They went up, I think, from -- I
9 think probably 2014 or somewhere in there, 2013
10 maybe, they climbed and then in 2015 they kind
11 of peaked and levelled, and then following upon
12 that they declined from then pretty much until I
13 left the board.

14 Q The commission's heard some evidence that during
15 a single month in 2015 at one casino over
16 \$20 million in cash buy-ins was made in one
17 month, the majority of which was in \$20 bills.
18 Was the board given information about sort of
19 that quantity of cash and the manner in which it
20 was coming in?

21 A I don't think so, but we may have been as part
22 of our -- as part of the reporting that came to
23 us. Because lots of questions were asked about
24 that sort of thing, and indeed one of the things
25 that, as you probably know from having gone into

1 this now, there's not a shortage of acronyms
2 around when dealing with this. So one of the
3 things that the board asked for and got was to
4 get -- to get some education. We weren't expert
5 in any of this stuff. And so in the course of
6 that there may well have been indications that
7 there were large quantities of \$20 bills coming
8 in.

9 I think also it's important -- I know I
10 asked about \$20 bills once about the
11 incidents -- because I'm a cash user myself.
12 I'm -- I don't have a bank card. I'm old and I
13 still do things with cash. And I was curious to
14 know in Canada what the greatest -- what
15 denomination of bill was the most frequent. And
16 we got a report back from the Bank of Canada,
17 and I think it was the \$20 bill. It was about
18 40 or 45 percent of all bills in circulation
19 were \$20 bills. And I can't remember what the
20 second one was. I think it was the 10. But it
21 may have been the 50. But there was a large
22 number of \$20 bills around. The reason I asked
23 that question is because I didn't want -- I
24 didn't want to confuse myself with automatically
25 linking \$20 bills with some nefarious activity

1 because I personally walk around with a lot of
2 \$20 bills in my pocket. And I wouldn't want you
3 or others thinking that I was doing something
4 inappropriate because I'm carrying \$20 bills,
5 that's all.

6 Q Would it be unusual for you to have \$200,000
7 worth of --

8 A No, it most certainly would be unusual.
9 Absolutely.

10 Q I mean, regardless of the denomination, \$200,000
11 showing up at midnight in a grocery store bag at
12 the cash cage, could you --

13 A I hear you.

14 Q Do you have an explanation for that?

15 A No, I don't have an explanation for that.

16 Q At the time did you conjure up any legitimate
17 explanation?

18 A I could not, and that's why we had people
19 recording all that.

20 Q Okay. Did you consider recommending to the
21 executive of the British Columbia Lottery
22 Corporation that they mandate use of the patron
23 gaming fund account at least over a certain
24 value?

25 A No, I did not.

1 Q Did you consider proposing or exploring the
2 possibility of capping the quantity of cash that
3 could be used at a single buy-in?

4 A Say again.

5 Q Did you contemplate or discuss with the British
6 Columbia Lottery Corporation executives a cash
7 cap?

8 A Well, we discussed it because from time to time
9 it was raised about having a prescriptive method
10 of dealing with the use of cash versus what our
11 mandate was, which was to do that on a -- on the
12 basis of risk, who your players are and all that
13 kind of thing. So no.

14 To go to the prescriptive route, you would
15 have to have had a policy change in government.
16 It's not -- I don't think BCLC could have just
17 stood up one day and said look, we're going to
18 limit what you can bring in in terms of cash. I
19 think that would -- you know, cash is a
20 legitimate currency. And so I don't think that
21 would have been something that would have been
22 appropriate for BCLC to do. That would be
23 something that would be appropriate for the
24 government itself to do in its policy and the
25 government itself would look to GPEB and others,

1 who after all are the policy people inside the
2 government, to get recommendations about it.

3 Q Did you raise with government the possibility of
4 instituting a cash cap or mandating the use of
5 the patron gaming fund --

6 A No, I did not. No.

7 Q We've come to understand that at least until
8 2015 the focus of the British Columbia Lottery
9 Corporation when assessing these buy-ins was
10 source of wealth as opposed to source of the
11 cash that was being presented. Did the board --
12 did you understand that?

13 A Well, I understood that one of the -- one of the
14 matters that our compliance people looked at was
15 to -- was to try to determine the source of
16 wealth and to determine the source of cash,
17 both. Or at least the source of their funds,
18 however it was, cash or, you know, cheque or
19 whatever it was. So I understood that, yeah.

20 Q Who told you that the British Columbia Lottery
21 Corporation inquired into the source of the
22 particular funds that were being used to buy in?

23 A Well, it was part of the know your customer
24 program that the compliance people worked with
25 the service providers on.

1 Q Did you discuss with the British Columbia
2 Lottery Corporation executive or did you
3 recommend requiring for cash buy-ins of a
4 certain magnitude that the source of the cash be
5 established prior to the cash being accepted?

6 A No. And I think just so we get the use of
7 language I understand it better, did I
8 recommend? Again, we were a governance board,
9 not an executive board, so I didn't make
10 recommendations to the management. What I did
11 was -- and the board did, was to make sure we
12 had highly, highly skilled management people and
13 we listened to them. I think it would have been
14 highly inappropriate for me, frankly an amateur
15 when it comes to money laundering, to stand up
16 and direct people who are experts in the field
17 what they should do.

18 Q Yes. You didn't play a role of directing, but
19 you did in your capacity as chair of the board
20 play the role of advisor to the CEO, did you
21 not?

22 A Yeah, but not in the kind of technical way I
23 think you're thinking of. Not at all. One of
24 the roles that a chair plays in relation to the
25 CEO is to be a bit of a sounding board and to

1 be -- you know, the CEO doesn't have a lot of
2 places they can go and talk about things, and
3 one of the roles that a good chair plays is to
4 try to develop a relationship with the CEO such
5 that the CEO feels comfortable about talking to
6 them about a whole host of things. And so that
7 role is played. But you're not -- I don't want
8 to overstate what the chair does. You're not
9 telling the CEO what to do. You're not an
10 advisor to the CEO. You are -- you are there to
11 come alongside the CEO and be supportive of the
12 CEO. You're there to question the CEO in terms
13 of the mandate letter that you receive and how
14 it's being implemented and the strategy that's
15 developed as a board and an organization
16 annually. But you're not there to be directive.

17 Q Did the board have a role to play in ensuring
18 that directions given by government were
19 implemented and followed?

20 A Yes.

21 MR. MCGOWAN: I wonder if we could please, Madam
22 Registrar, pull up appendix or exhibit G to
23 Mr. Smith's witness statement, which is the
24 second exhibit to his affidavit.

25 Q Mr. Smith, this is a letter to you from Minister

1 de Jong October 1st, 2015?

2 A Yes.

3 Q I just wanted to read one of the directives and
4 ask you what came of it. And I'm just going to
5 start by reading the second paragraph:

6 "Despite the introduction and promotion of
7 non-cash alternatives in gaming facilities
8 through earlier phases of the AML
9 strategy, I am advised that large and
10 suspicious cash transactions remain
11 prevalent. This situation must be
12 addressed. As such, BCLC is directed to
13 take the following actions with respect to
14 AML."

15 And I'm going to read number 3:

16 "Enhanced customer due diligence to
17 mitigate the risk of money laundering in
18 British Columbia gaming facilities through
19 the implementation of AML compliance best
20 practices including processes for
21 evaluating the source of wealth and source
22 of funds prior to cash acceptance."

23 Did you take that as a direction from the
24 minister to the lottery corporation that they
25 were to establish the source of cash prior to

1 acceptance or have the service providers do
2 that?

3 A Well, it's -- you raise an interesting question.
4 That issue was one that was discussed at length
5 by the board, and there seemed to be two points
6 of view that came up when that was being
7 discussed, particularly from our management.
8 One of them was that that was basically an
9 extension of and reinforcement of what we were
10 doing in terms of a risk-based assessment of
11 both of these things. And the other one was
12 that that really was directing us to be much
13 more prescriptive and anyone brought cash in no
14 matter what the amount was that they would have
15 to disclose the source of their funds, where
16 they got the cash and so on.

17 Q Which of those two views did you subscribe to?

18 A I subscribed to the view that if the minister
19 wanted us to change from what had been the
20 direction up to then through the mandate letters
21 that it was a risk-based process, the minister
22 would have said that.

23 Q Did you interpret this letter as a direction to
24 change the approach?

25 A I did not. But -- and the reason I didn't quite

1 frankly is I knew the minister personally a
2 little bit, and I never found him to be shy
3 about expressing specifically what he wanted
4 done. And this is, just by the way it was
5 interpreted by various people, it seemed to
6 bring some ambiguity into how it could be
7 interpreted, which wasn't typical of that
8 minister.

9 So what actually happened here was the -- I
10 believe somewhere in here the board directed me,
11 speaking of directing, to find out what it was
12 that we were to do in that regard, what those
13 words meant. And they directed that I get a
14 letter and put it together and get it off to the
15 minister so we could be clear and certain about
16 what that meant. Because if it meant the more
17 prescriptive approach, then you were really
18 changing considerably the model, the business
19 model that you were operating under.

20 Q And so I wonder if you can just walk us through
21 the followup and what you did and what feedback
22 you got from government about those words.

23 A Well, there was a letter drafted. I don't know
24 where it is. Maybe, Brian, you can find it for
25 them, but there was a letter drafted that went

1 through a whole host of things, and it had a lot
2 of words in it about what the financial
3 implications might be and so on. And so that
4 letter was put together and I read it and -- but
5 I didn't send it off. It was sometime around --
6 I think the -- sometime in October, I believe,
7 when that letter was put together. Maybe it was
8 September.

9 I then was in Victoria and I was meeting
10 with someone else. Anyway, to make a long story
11 short, Brian Menzies, who was the chief of staff
12 to our minister, invited me into his office to
13 talk about a couple of things, and while there
14 the minister had some time. The minister was
15 very busy because he was, A, the Minister of
16 Finance, which takes up a lot of time, but
17 secondly, he was the government house leader, so
18 when the legislature was in session, he was
19 busier than a one-armed paper hanger because he
20 was in and out of the house constantly. So it
21 was very hard to, you know, get his time.

22 Anyway, Brian found a few minutes and a bit
23 of time, and I went in and we had a discussion
24 about a couple of things, and I asked the
25 minister, I said look -- I made reference to

1 this letter and I said, there's two points of
2 view even within our own executive about what
3 that means, and I want to know from you, are
4 you -- do you want us to basically everyone who
5 comes in the door with cash to stand them aside
6 and question them about the source of their
7 money, or is this about us being more deliberate
8 and more fulsomely doing what we've been trying
9 to do up till now on a risk-based approach; do
10 you want to go away from the risk-based approach
11 to a dollar-specific approach? And he said, I
12 do not want you to go to a dollar-specific
13 approach; I want you to continue with your
14 risk-based approach, but I want there to be more
15 action to try to get a handle, a better handle
16 on what's going on.

17 So I reported back to my board and to -- I
18 believe to Jim that conversation, and so the
19 letter didn't go -- there was no need for the
20 letter to go.

21 Q This was Minister de Jong?

22 A Sorry?

23 Q Was this Minister de Jong?

24 A Yes.

25 Q And in applying the risk-based approach, did you

1 have any discussions with members of the British
2 Columbia Lottery Corporation executive as to
3 whether buy-ins at a certain magnitude were just
4 inherently risky enough that they ought to
5 require sourcing?

6 A Yeah. I don't think those were mutually
7 exclusive concepts. One of the things that
8 we -- that we were trying to do was also at this
9 time, we had gone out and we were trying to
10 introduce an artificial intelligence system that
11 was in use with various banks and so on because,
12 you know, remember there are -- I don't know,
13 close to a billion transactions a year going on,
14 or maybe more, inside the lottery corporation,
15 and thousands and thousands and tens of
16 thousands of transactions or hundreds of
17 thousands going on in the casinos themselves.
18 And so we were trying to find ways to do all of
19 this work other than kind of manually and
20 finding open-source data and that sort of thing
21 to help us out. And so one of the things we did
22 was pursue an artificial intelligence system,
23 which we thought would help out a lot. Turned
24 out it didn't work, and so it got abandoned.
25 But the know your customer part of it, I

1 think -- I think we did reasonably well at that,
2 actually, to know where the people were from,
3 what business they were in, which then told you
4 how much money they would, you know, typically
5 have and how they would -- how long they had
6 been here, whether or not they had kids in
7 school and all this sort of stuff to really get
8 a handle on their life. And I think there was a
9 lot of work done on that. I don't think it was
10 tied specifically to the amount of money that
11 they wanted to bring into a casino or not bring
12 into a casino. That part of it was just to get
13 to know your customer. And then of course the
14 amount of money that they would bring in would
15 be -- depended on a whole host of thing, not the
16 least of which was how wealthy they were.

17 MR. MCGOWAN: I wonder if you could, Madam Registrar,
18 turn up Mr. Smith's witness statement, bottom of
19 page 3, top of page 4. I'm looking for the --
20 this is not the -- those are the questions. I
21 need the next exhibit, please.

22 THE WITNESS: Sorry, I thought he was talking to me.

23 MR. MCGOWAN: No, I was --

24 THE REGISTRAR: Sorry, Mr. McGowan, you're looking
25 for exhibit B?

1 MR. MCGOWAN: Exhibit 2.

2 THE REGISTRAR: 2, okay.

3 MR. MCGOWAN: The third page of that document --

4 pardon me, bottom of page 4, top of page 5 of

5 this document. Page numbers are in the bottom

6 right corner. Scroll down three more pages,

7 please. Yes, there we are. Stop there, please.

8 Q Sir, I just wanted to ask you about something

9 you say here. You say at the bottom of page 4:

10 "It was understood inherently that, in the

11 circumstances of that much cash flow,

12 improprieties, including money laundering,

13 likely could be present."

14 So I gather at the time -- is this a reflection

15 that at the time you understood the risk that

16 money laundering was happening in connection

17 with British Columbia casinos?

18 A Yeah, that actually just corroborates what I

19 said to you right at the outset. I was aware,

20 you know, going back pretty much to day one when

21 gaming was introduced to BC. This is one of the

22 things people would constantly say is that --

23 those who were opposed to gaming, if you get

24 involved with gaming you're going to attract all

25 these bad elements and it will be with you;

1 there's nothing you can do about it; it will
2 just be there.

3 Q By 2013 and 2014 in your mind had we moved past
4 the theoretical to a much more tangible concern
5 in the face of millions of dollars of cash
6 coming into casinos every month?

7 A Well, yeah, that spoke to two issues. That
8 spoke to one, whether there is inappropriate
9 money, money laundering and so on going on, and
10 secondly, you know, we as a province had trained
11 people, frankly, that they should and could and
12 must use cash, and then we also raised betting
13 limits. So it just wouldn't be at all a
14 surprise to me that when you've got that much
15 cash floating around, some of it is going to be
16 sourced inappropriately, some of it is going to
17 be used inappropriately, and so on, and you can
18 attach whatever names you want to that as to
19 what the inappropriateness is. When there's
20 that much cash floating around I just think it's
21 inevitable.

22 MR. MCGOWAN: We can take that document down, Madam
23 Registrar.

24 Q Did you communicate to government a concern that
25 casinos might be being funded to a significant

1 degree by proceeds of crime?

2 A No. I don't understand what you mean by casinos
3 were funded by.

4 Q Did you tell government that proceeds of crime
5 might be entering British Columbia casinos at a
6 significant rate?

7 A Oh, I don't think I did it with -- used those
8 specific words, but clearly our suspicious
9 transaction records and all that other kind of
10 stuff that we got reporting would signal that
11 that sort of thing was going on, and as I
12 pointed out to you there was a -- I don't want
13 to call it a spike, but there was an increase
14 that goes up through 2014, 2015, and so yeah,
15 that -- I would be amazed if government wasn't
16 aware of that, whether I told them or not.

17 Q Did you -- I gather from your evidence you had a
18 concern that there was at least a risk that
19 British Columbia casinos were being used to
20 facilitate money laundering. Is that a fair
21 interpretation?

22 A Yes. What I wasn't -- what I used to question
23 and ask questions about and still do, quite
24 frankly, is the quantity. There were all --
25 there's been -- throughout all of this, there's

1 been all kinds of people who have offered
2 opinions about the quantity of how much money is
3 going through, and I was never able to get my
4 mind around whether they knew what they were
5 talking about or not or whether they just pulled
6 a number out of the air. But yeah, as I say,
7 when there's that much cash floating around, it
8 would be hard to not form the opinion that some
9 of it was being used inappropriately, including
10 being proceeds of crime.

11 How much money would be laundered inside a
12 casino, and I'm talking now inside the casino,
13 was a little bit -- a little bit more complex
14 for me because we had all sorts of procedures
15 put in place that were designed, as I understood
16 it, to at least -- to prevent that from
17 happening. And so how much was actually
18 laundered inside the casino, I don't know and
19 didn't know, but -- and I think they're two very
20 separate things, how the money comes into the
21 casino and what happens to the money when it is
22 in the casino.

23 Q Did you have communicated to you a theory that
24 was held by some that high-end players,
25 high-value players were gaming with proceeds

1 that they had been loaned and they were repaying
2 these loans through some other means, perhaps in
3 some other jurisdiction and by that process
4 laundering was occurring?

5 A No. In this period of 2014, 2015?

6 Q Yes.

7 A No, I don't recall that discussion at all.

8 Q Okay. Regardless of whether laundering was
9 occurring, was it a concern to the board -- was
10 the prospect that proceeds of crime were being
11 used to gamble in British Columbia casinos on
12 its own a concern?

13 A Well, for sure. I mean, you don't want -- you
14 don't want to have the proceeds of crime coming
15 into -- coming into your business, whatever
16 business you're in.

17 Q When did you --

18 A Absolutely.

19 Q Thank you. Did you communicate to government
20 that there was a concern that proceeds of crime
21 might be entering British Columbia casinos?

22 A I don't think in that specific way. But, again,
23 I have to say that all of the reporting that we
24 were getting surrounding suspicious
25 transactions -- there was a tremendous amount of

1 intelligence gathering and information gathering
2 and so on that we got, and that information was
3 shared with government, was shared with GPEB,
4 was shared with the federal government, through
5 FINTRAC and so on, and so yeah, the government
6 was aware of that for sure.

7 Q How many times roughly did you meet with
8 Minister de Jong in your capacity as a member of
9 the BCLC board?

10 A Maybe -- maybe 15, 16, 20 times. I don't know.
11 Not frequently anyway.

12 Q In any of those meetings did you say anything to
13 the effect of, there is a huge amount of cash
14 coming into British Columbia casinos and there's
15 a concern it might be proceeds of crime?

16 A I don't think so, no.

17 Q Did you have discussions about the risk with
18 Minister de Jong about the risk that proceeds of
19 crime were entering British Columbia casinos?

20 A Absolutely. Because that was part of the
21 mandate letter that we got, and he was -- you
22 know, he would want to know what was going on,
23 what we were doing about it, and the sorts of
24 things that we were -- you know, we were trying
25 to achieve in terms of both limiting it and

1 getting people to move away from cash. Which in
2 my view was the more important thing, was to get
3 people to cash alternatives.

4 Q Okay. Did you have discussions with any
5 ministers aside from Minister de Jong about the
6 concerns surrounding cash entering casinos and
7 the possibility that might be proceeds?

8 A I don't think so, no.

9 Q Did you discuss that issue with Minister Eby?

10 A Probably when we met. The group of us met with
11 Mr. Eby I think in late October, and that
12 probably was discussed at that time. Because
13 you remember what happens here is that through
14 2014, '15, '16 and so on, there wasn't a lot of
15 discussion about this in the public domain, if
16 you like, if you understand what I mean. But
17 come 2017 there was a tremendous amount of
18 discussion about it in the public domain, and
19 that of course would inform conversations that
20 you would have with various people, particularly
21 political people.

22 I do -- I can tell you this, that when I --
23 the first meeting that I had with Minister Eby
24 in his capacity as minister was in, I believe,
25 July of 2017. It was myself and Mr. Eby and one

1 other person -- I forget his name off the top of
2 my head -- in his office in Victoria. And at
3 that meeting I gave him my letter of resignation
4 and the letter was given to him but open ended
5 for him to accept at a time of his choosing. I
6 did that, as I said to him, because it was my --
7 it is my belief that the chair of the board of
8 large organizations, Crown corporations in
9 government, should make themselves available to
10 be replaced for an incoming government, because
11 the new government may want to have a different
12 mandate and put different people in to pursue
13 that mandate. And so I was going to -- my term
14 was ending in any event in 2018, so I gave him
15 the letter of resignation open for his
16 acceptance up to the date of the expiration of
17 my term. He said he didn't want me to resign.
18 He pushed the letter back; he said, I don't want
19 that. I sent it across to him again. I said
20 well, in my experience sometimes it's not the
21 minister that gets to make this choice;
22 sometimes the caucus or the cabinet or someone
23 in the premier's office will come up with the
24 notion that they want to get rid of that person,
25 and I'm going to leave this letter with you

1 because if that does arise, then you won't have
2 to do an order in council to get rid of me; you
3 just can say I've got his resignation and that's
4 the end of that. And I said, the only thing I
5 would ask you to do is when you accept my
6 resignation is send me an email or something to
7 let me know that's what you're doing.

8 So that was one thing that happened at that
9 meeting. The second thing that happened at the
10 meeting we discussed some of the things that we
11 were doing at BCLC. You know, we were -- we had
12 just finished up a very, very significant
13 capital project, around \$120 million, which
14 changed the software in all the casinos. And if
15 anyone knows anything about changing software,
16 even in their own laptop, stuff happens when you
17 change software, and we were changing the
18 software in all of them in British Columbia and
19 all the slot machines and all this sort of
20 stuff. And we wanted to, as a board, make sure
21 that happened on time and on budget and equally
22 importantly that we didn't cause major
23 disruption in the casinos that they'd get shut
24 down because of the glitch in the software. So we
25 discussed about how that had been done. We

1 discussed a diversity initiative that we're
2 ramping up in terms of our staffing. We talked
3 about some of the work that we were doing in
4 responsible gaming that we had an initiative
5 going with MGM, which -- where they bought our
6 program. We had an initiative finished up with
7 the with the state of Massachusetts for the same
8 thing. We were working with Manitoba, who also
9 took on our Playnow.com. All these kinds of
10 things. A whole raft of things that we were
11 dealing with at BCLC. And out of that
12 conversation, I remember at the end he -- him --
13 the minister saying to me well, you know, things
14 seem to be going well, and he thanked me again
15 for the meeting that had been put on a year or
16 so before with our executive. He said, I don't
17 think I'll have to -- I don't think I'll be
18 spending much time with you people; I'm spending
19 a lot of time with ICBC, but I don't expect to
20 be spending much time with you people because
21 things seem to be going along pretty well. And
22 I kind of chuckled and I said well, don't be too
23 certain of that, minister, because in my
24 experience around government there's two things
25 that jump up and kick you in the backside; one

1 of them is liquor and the other one is gaming.
2 And turned out a few months later that actually
3 happened when, you know, some reporting was
4 done. So he wasn't and I wasn't framed and
5 focused on anything particular in terms of AML
6 at that meeting.

7 The next meeting I had with him was in
8 October, I believe, in -- again in Victoria, and
9 I think at that meeting there were a number of
10 people there. I believe that Mr. Mazure was
11 there. I think Rob Kroeker was there. I'm not
12 sure who else, but there were quite a few
13 people, I remember, in the room. And there was
14 discussion about AML and about the different
15 approaches that could be taken to it.

16 And I also at that -- I think it was at
17 that meeting -- I raised with him or I said to
18 him, you know, one of the things that I believe
19 and I've always believed that government really
20 has to think about is whether they want to be in
21 this business or not, because it is a business,
22 and government has difficulty with it because
23 government's level of accountability is very,
24 very different than business accountability to
25 an ordinary shareholder. Government's

1 accountability is in the legislature through
2 something called a minister responsible, key
3 word "responsible." The minister has virtually
4 no role in the business but are responsible in a
5 public forum. That is ginned up the most
6 outrageous partisan behaviour that you can
7 imagine sometimes. So that made it difficult.
8 So I said one of the things that it may be that
9 the government should be thinking about is
10 whether they want to be in the business of the
11 very high-end gaming that we're in right now,
12 and that is to say the very high-limit tables,
13 \$100,000 betting limits on a game, this sort of
14 thing.

15 There's only -- well, there's Vegas and
16 Macao and Vancouver and maybe Australia and I
17 guess now Boston where that level of gaming
18 actually takes place.

19 Q Okay. And what was the minister's response?

20 A I think he basically ignored my suggestion that
21 we get out of the business. And if that was in
22 fact what he did, he would not have been the
23 first minister that would have ignored that
24 suggestion.

25 Q I'm going to come back to that in a second. I

1 want to ask you about this meeting that you were
2 just speaking of. And am I right that
3 Mr. Kroeker and Mr. Lightbody were in attendance
4 as well?

5 A I'm not sure about Mr. Lightbody, but for sure
6 Mr. Kroeker was.

7 Q And do you recall Mr. Kroeker --

8 A Jim was probably there, yeah, when I think about
9 it.

10 Q Okay. Do you recall Mr. Kroeker or anybody
11 walking the minister through an analysis of
12 links between loan sharks or cash facilitators
13 and players and cash and potential connections
14 to the criminal element?

15 A I know that Rob was responsible for a fairly
16 significant amount of presentation at that
17 meeting for sure. But I wouldn't -- to be
18 honest with you, I wouldn't want to say I know
19 what the details of that presentation were.

20 Q Did the presentation address the possibility
21 that proceeds of crime were entering British
22 Columbia casinos?

23 A I'm sure it would have, given the nature of the
24 meeting. Because GPEB was there and so on
25 and -- yeah.

1 Q Do you recall the minister's response to that --

2 A I don't. I really don't, no. I think there
3 were a dozen people in the room, and if you know
4 the office, it's not particularly big.

5 Q Did you have any discussion with Minister Eby at
6 this meeting or any other meeting about whether
7 the government wanted to adjust bet limits?

8 A No.

9 Q Did you discuss with anybody from the prior
10 administration the possibility of adjusting bet
11 limits in the face of increased cash buy-ins?

12 A I don't recall doing that, but I -- it may very
13 well have been. Because there was -- there was
14 often some form of dialogue that would arise
15 about being prescriptive, having limits in terms
16 of cash. I think there was an actual -- I don't
17 know whether it was an audit or not, but there
18 was a report by an accounting firm. We
19 didn't -- BCLC didn't do it, but -- initiate it,
20 but I think it was MNP they're called, and if I
21 recall correctly they recommended quite
22 specifically betting limits, that he move away
23 from this risk-based approach of dealing with
24 people and dealing with their cash and dealing
25 with their -- the money they wanted to bring in

1 and go to something that was much more
2 check-the-box prescriptive.

3 So that -- I say all that only because I
4 may have had that discussion in some way with
5 Minister de Jong, but I don't -- you know, I
6 don't recall it, frankly.

7 Q Okay. One of the answers you gave a few moments
8 ago suggested that had raised the issue of the
9 province getting out the business of high-end
10 table gaming with a minister other than Minister
11 Eby. Who else did you discuss
12 that possibility --

13 A With Minister de Jong.

14 Q When did you do that?

15 A Oh, well, for sure I did it -- I shouldn't say
16 "for sure." I believe I did it at a meeting
17 with him in -- when would it be? I think it
18 was -- maybe it was in September of 2015. I was
19 at a meeting with Minister de Jong and I think
20 present as well was Mr. Mazure, and the ADM
21 whose first name is Cheryl and Jim. Jim
22 Lightbody. And I believe at that meeting I
23 raised that question. There were a lot of
24 things discussed at that meeting and one of the
25 outcomes -- that's the meeting I think that

1 really led to the standing up of JIGIT.

2 Q Okay. What was the minister's response?

3 A As I said, he, as with his successor, ignored my
4 brilliant idea.

5 Q Were you raising the idea in the context of
6 concerns about the quantity and potential source
7 of cash entering casinos?

8 A The reason I was raising the concern was in
9 part, I guess, is the whole thing, is that it's
10 my belief that government is ill-suited to be
11 operating this high-level gaming business for a
12 whole host of reasons, and I thought and think
13 that government would be far better off to
14 monetize what they've built and then to be a
15 regulator and in terms of the revenue that they
16 would derive to do that through the taxation
17 process rather than through a Crown corporation
18 and then another Crown corporation that's a
19 quasi regulator and then a minister having to be
20 responsible for it in a totally partisan
21 political environment just seems to me to be an
22 awkward way to run that business. It's a very,
23 very dynamic business, highly, highly
24 competitive, and I just think government is
25 ill-suited to run it. That's all.

1 Q Okay. Thank you for that thought. I want to
2 come back to something I asked you and make sure
3 I understand your evidence on it. When is the
4 first time you recall having a conversation with
5 government addressing concerns about the source
6 of cash entering British Columbia casinos?

7 A I can't tell you that, but I can tell you that
8 from the very first meeting I was at as a
9 director of BCLC through the reporting process
10 that I described, there was, you know, reports
11 about suspicious transactions and all the things
12 that flow out of that. So -- but when did I
13 talk to government about it or did I talk to
14 government about it specifically, I really can't
15 tell you when that would be.

16 Q Okay. From the early days of your meetings with
17 Minister de Jong, was it a topic that was
18 addressed at those meetings?

19 A Well, it was a topic -- the topic that was
20 addressed always was to move away from cash and
21 to know your customer better and try to -- try
22 to determine -- get a better handle on what the
23 source of the money is. But the big thing was
24 move away -- move to cash alternatives. That
25 was always a big issue, to do what you could to

1 move to cash alternatives.

2 Q Did you ever discuss with Minister de Jong the
3 possibility of lowering the bet limit or capping
4 cash?

5 A No.

6 Q Were you aware of concerns on the part of
7 members of the British Columbia Lottery
8 Corporation about what they perceived to be a
9 lack of enforcement action in the face of years
10 of BCLC reporting to FINTRAC, GPEB and law
11 enforcement about these cash transactions and
12 their suspicious nature?

13 A Yes. And I expressed that in my letter to -- to
14 Mr. Eby, my final letter to him, and that was
15 something that I had expressed, I think -- well,
16 not I think, I know I expressed in the
17 September 25th, 2015 meeting with Minister
18 de Jong, is that the -- BCLC was in an odd
19 position because of the profile it had, and has,
20 in terms of gaming in British Columbia. People
21 believe that BCLC is responsible for everything,
22 including enforcement, and of course BCLC, as
23 you know, isn't responsible for enforcement,
24 particularly outside of the casinos. And others
25 are. And so the frustrating thing for BCLC

1 would be that people had an expectation that
2 they could do things that they couldn't do as a
3 matter of law, and so I had expressed it this
4 way to Minister de Jong as well as to Minister
5 Eby that there's a kind of a -- there's three
6 parts, three legs to this stool. One is the
7 gathering of information, intelligence gathering
8 and information gathering, reporting. I mean, I
9 think -- and all the people involved in that.
10 There's the service providers, BCLC. You know,
11 all sorts of people are involved in that,
12 police, GPEB. And I think the amount of
13 information that is gathered up is incredible
14 and hugely useful. But the next step of it --
15 leg to the stool is sharing that information,
16 which I described in my experience and in
17 observations is spotty. Sometimes it gets shared
18 really well between agencies; sometimes it
19 doesn't get shared at all; sometimes it actually
20 gets withheld, information that should be
21 shared. And the third leg of the stool was
22 enforcement, which I described as ran somewhere
23 from poor to nonexistent. And there were a
24 number of places where that would come into
25 play. For instance, there were illegal casinos

1 operating in Metro Vancouver. I would be amazed
2 if they aren't operating today, in fact, given
3 that the casinos are closed. But that's another
4 point -- besides the point, I should say. And
5 we were -- you know, a lot of people were aware
6 of them, and yet they didn't get closed. Why
7 would that matter to us, some say; oh, you're
8 just concerned that they were competition.
9 Well, yes, in fact they were competition; that's
10 true. But they were also places, for instance,
11 where we knew our chips were being used
12 improperly. The people come in and out of
13 casinos and they'll put their -- you know, the
14 chips that they use, they maybe put in their
15 coat pocket or something and forgot about it.
16 Chips leave casinos every day. And there's a
17 float. I don't know what the numbers are, but
18 somewhere in the neighbourhood, say at River
19 Rock, there was an expectation there was a float
20 of maybe -- pick a number, couple of million
21 dollars that would be involving these chips
22 going in and out.

23 At one point that float spiked up to
24 somewhere around 8 or 9 or \$10 million, and BCLC
25 and River Rock worked together to set up a date

1 when people would have to bring those chips back
2 in, and that would -- that would have the people
3 who would have to bring them in would have to
4 disclose themselves, how many they had and all
5 that kind of stuff, which was going to be
6 exceedingly helpful to learn about who's
7 laundering what. And that was all set up to go,
8 and at the 11th hour, for reasons that I still
9 don't understand, the regulator directed BCLC to
10 stand down and not do it. And in our opinion
11 that resulted in several millions of dollars in
12 fact being successfully laundered which we
13 thought we could prevent or stop or find out
14 about if we followed through on what we did. So
15 that was an example of what I'm saying that
16 enforcement wasn't good.

17 The other thing that those illegal casinos
18 do is they give credit. So the person that's in
19 the casino, in the illegal casino, runs out of
20 money; they don't have to go out to the parking
21 lot and find a money facilitator in the middle
22 of the night. They just get a credit. They
23 have a line of credit right in the facility,
24 which makes a whole bunch of sense, frankly, and
25 that, in a sense, is competitive. And then the

1 third thing that happens, happens in Macao and
2 it happens elsewhere, Vegas and so on, is if you
3 have extensive losses at the end of the night, a
4 percentage of those losses is given back to you
5 in the form of a credit so you come back the
6 next day, you've got some money in the pot. It
7 happens in the illegal casinos around Vancouver
8 as well. And so all of those things, you know,
9 make it more difficult in a competitive
10 environment. And those casinos should be shut
11 down and particularly when, you know -- well,
12 we've got enforcement people who could do it, so
13 that -- those are just some examples of what I'm
14 talking about when I said that enforcement ran
15 from poor to nonexistent. It's not a slight on
16 anyone. It's not an anti-cop diatribe. It's
17 just -- you know, there's all kinds of reasons
18 for it. They might not have had enough
19 personnel, whatever it was. But the fact of the
20 matter is the enforcement was not good.

21 Q Just a couple of questions to follow up on that.
22 I want to ask you about this chip swap that was
23 cancelled. Did you ever follow up and inquire
24 of the regulator or government why they
25 intervened to stop the chip swap?

1 A I asked our people -- I didn't follow up with
2 government specifically, and I didn't have any
3 communication with the regulator, not because I
4 didn't want to, it just it seemed to be not
5 appropriate for the chair of the board to be
6 doing that.

7 I asked their own people to -- for
8 rationale and I didn't get an answer, so ...

9 Q You told the Commissioner that you communicated
10 to Minister Eby that enforcement was weak to
11 nonexistent. Did he have any reaction to you
12 advising him of that?

13 A Well, that was in letter, and that was my final
14 letter -- my letter to him, so the answer is no,
15 I didn't get a reaction to that.

16 MR. MCGOWAN: Madam Registrar, maybe we could just
17 bring that letter up. Exhibit H to the witness
18 statement, please.

19 THE REGISTRAR: Sorry, did you say exhibit A?

20 MR. MCGOWAN: H.

21 THE REGISTRAR: Oh, H.

22 MR. MCGOWAN: H as in right before I. Yes, thank
23 you. First page of this letter.

24 Q Just a few paragraphs from the bottom starting
25 with "I can report." The letter reads:

1 "I can report to you that
2 information/intelligence gathering is
3 strong. Whilst undertaken largely by
4 service providers and BCLC, it also
5 involves enforcement agencies and
6 regulators. Sharing intelligence and
7 information between agencies I would
8 describe as 'spotty.' Enforcement, rooted
9 in the vast amounts of
10 information/intelligence gathered from
11 within or through or around gaming
12 facilities, I must report, appears to run
13 from weak to nonexistent."

14 That was the view you communicated to minister
15 in May of 2018?

16 A Yeah. I just want to say only because I feel a
17 little bit sometimes guilty about appearing to
18 be dumping on the police, the three words "I
19 must report," I was -- is an indication that
20 it's more out of sorrow I'm reporting this than
21 out of accusation.

22 Q Okay. And did I understand from your evidence
23 that you communicated similar sentiments to
24 Minister de Jong?

25 A Yes.

1 Q When did you do that?

2 A For sure during that September 25 meeting.

3 Q And is that -- that was 2015?

4 A Yes, sorry, yeah. 2015.

5 Q And prior to 2015 had you communicated to
6 government concerns about a lack of enforcement
7 in the face of the intelligence that was
8 gathered?

9 A I don't recall that specifically. I'm also
10 learning as I'm going along in that period of
11 time.

12 Q Yes. And what was Minister de Jong's response
13 to you communicating those sentiments?

14 A Well, you know, he didn't say anything
15 particularly, but he was -- obviously was
16 concerned about it, clearly was concerned about
17 it.

18 Q Did you ever receive a direction or a response
19 from government that left you with the sense
20 that the government wanted you or the lottery
21 corporation to prioritize revenue over
22 enforcement or anything of the sort?

23 A No. And I'm going to be measured in what I say
24 because frankly it's one of the assertions that
25 I and others have had to live with, which, to

1 not overstate it, pisses me off in the extreme
2 because it is an obnoxiously untrue statement.
3 It is something that troubled me greatly with
4 our staff. When this all in 2017 got heated up
5 in the media, we had people who were really put
6 upon by all kinds of people, their whole family.
7 Even one of our board of directors at a
8 Thanksgiving dinner was asked, why are you
9 bothering serving on the board of an
10 organization that's wilfully blind to money
11 laundering going on and criminal activity? We
12 had reports from our staff of people whose
13 family similarly asked them about, you know, why
14 they wanted to work at such an organization.
15 Members of our staff had the, you know, service
16 provider, lawyers, doctors, dentists, massage
17 therapies, checkout counter people who knew them
18 at the grocery store make comments about where
19 they worked and that sort of thing. It was
20 really, really, really unsettling. And there
21 was one who -- woman I -- god, it was just
22 troubling. She was -- it was quite fearsome for
23 her. She was walking along not far from the
24 office over in Vancouver here, and some
25 doughhead comes along and winds his window down

1 and in a -- not just going at 50 miles an hour.
2 He slows right down so that he's travelling at
3 about the same speed as she's walking. She's
4 got BCLC swag on her, some kind of a cap or coat
5 or something. Screams at her, you're a fucking
6 money launderer. And did it in the most
7 incredibly threatening way.

8 And this stuff was really, really troubling.
9 And there was no -- it just went on. There was
10 a narrative developed that that was the case,
11 and it still exists, quite frankly, and it
12 really is -- it's obnoxious. No one, zero, as
13 in nada, asked or directed or suggested or gave
14 a wink or a nod or a nudge with their elbow or
15 anything else that we should stand by and stand
16 down from our responsibilities in order to
17 increase revenue to government. Ever.

18 Q Yes. Thank you. You've -- I take it you're
19 speaking about members of the British Columbia
20 Lottery Corporation. Is that -- do I take your
21 answer to be relating to them?

22 A Well, the question you asked me was whether or
23 not government, somebody in government --

24 Q Yes, I'm just trying to understand if you
25 were --

1 A And the answer is no. But one of the outcomes
2 I'm trying to make the point with you of this
3 narrative being present and still present, it's
4 gone beyond a narrative. It's now received
5 wisdom in British Columbia by the overwhelming
6 majority of the population that this took place.
7 It's not correct.

8 Q Do you recall a time in 2017 when the lottery
9 corporation was advised that some of the
10 high-end patrons might have been buying in with
11 bank drafts that were sourced from proceeds of
12 crime?

13 A I don't think so, no.

14 Q Did you become involved --

15 A We were -- we encouraged, in fact, bank drafts.
16 How would you -- just for my own information,
17 how would you get a bank draft sourced with
18 proceeds of crime? Doesn't a bank -- I go and
19 get bank drafts once in a while myself. It's a
20 painful exercise they go through to find out
21 from me where I got the money.

22 Q Let me maybe just tell you why I'm asking the
23 question. The commission has heard some
24 evidence about attempts that were made on the
25 part of the lottery corporation to get the names

1 of these players that were of concern from the
2 Gaming Policy Enforcement Branch and I wanted to
3 know if you had any involvement in attempting to
4 obtain those names from government?

5 A Would you say that again. I don't think I
6 understood the question.

7 Q The commission has heard some evidence that I
8 think in or around 2017 the British Columbia
9 Lottery Corporation was advised that there was a
10 concern that I think 10 of their high-end
11 patrons might have been sourcing drafts from an
12 illicit source.

13 A Right.

14 Q And their request for the names of those players
15 and those names weren't forthcoming and I wanted
16 to ask you whether you had any involvement in
17 efforts to obtain those names?

18 A No.

19 MR. MCGOWAN: Okay. Thank you, sir. Those are my
20 questions.

21 Mr. Commissioner, we're at noon now. We do
22 have a number of participants who have questions
23 for Mr. Smith, but I believe we have enough time
24 to comfortably conclude those today and perhaps
25 even take a brief break, if you or the witness

1 would like one.

2 THE COMMISSIONER: I think that's probably a good
3 idea. We'll take 10 minutes.

4 MR. MCGOWAN: Thank you.

5 THE REGISTRAR: This hearing is adjourned for a
6 10-minute recess until 12:18 p.m.

7 **(WITNESS STOOD DOWN)**

8 **(PROCEEDINGS ADJOURNED AT 12:08 P.M.)**

9 **(PROCEEDINGS RECONVENED AT 12:17 P.M.)**

10 **BUD SMITH, a witness for**
11 **the commission,**
12 **recalled.**

13 THE REGISTRAR: Thank you for waiting. The hearing
14 is resumed. Mr. Commissioner.

15 THE COMMISSIONER: Thank you, Madam Registrar.

16 I'll now call on Ms. Rajotte for the
17 province, who has been allocated 30 minutes.

18 MS. RAJOTTE: Thank you, Mr. Commissioner.

19 **EXAMINATION BY MS. RAJOTTE:**

20 Q Good afternoon, Mr. Smith. Can you hear me
21 okay?

22 A I can, yes.

23 Q So first I just have a question to clarify a
24 response you gave to commission counsel about
25 the reporting relationship between BCLC's board

1 and government.

2 A Right.

3 Q In response to a question that was put to you, I
4 believe your evidence was that to the extent the
5 board reported to government, you would
6 typically report through the ADM or directly to
7 the minister; is that right?

8 A Yes.

9 Q And I just want to clarify. When you say ADM
10 are you referring to the Assistant Deputy
11 Minister and General Manager of GPEB, or to the
12 Associate Deputy Minister?

13 A The Associate Deputy Minister -- oh, sorry. I'm
14 referring to Cheryl, actually.

15 Q Yes.

16 A Whatever her title is.

17 Q Yes. That's right. So Cheryl Wenezenki-Yolland
18 held the post of Associate Deputy Minister.

19 A Okay. All right.

20 Q So your reporting relationship --

21 A Yeah, you're right. It could be assistant or
22 associate. I didn't think about that.

23 Q Yes. Okay. Thank you. I just wanted to
24 clarify that point.

25 Mr. Smith, if you could please turn to

1 exhibit G to your affidavit, which is the
2 October 1st, 2015 letter to yourself from
3 Minister de Jong that Mr. McGowan took you to
4 earlier.

5 A Okay.

6 Q And I just have a question or a few questions
7 about paragraph 1 first. So this letter reads
8 that BCLC is directed to take the following
9 actions with respect to AML. And paragraph 1
10 provides:

11 "Ensure that BCLC's AML compliance regime
12 is focused on preserving the integrity and
13 reputation of BC gaming industry in the
14 public interest, including those actions
15 set out in the General Manager's letter of
16 August 7th and any subsequent actions or
17 standards that may follow."

18 Correct?

19 A Yes.

20 Q And did you understand this to be a direction
21 from the minister for BCLC to take those actions
22 that were set out in the August 7, 2015 letter
23 from the General Manager?

24 A You'll have to dig me up the August -- I don't
25 have the August 7th letter right handy, so I'd

1 want to take a look at them.

2 Q So if you -- I can take you to that, sir. So if
3 you see on page 2 of the letter there's a
4 notation that enclosed with the letter from
5 Minister de Jong to yourself is the letter dated
6 August 7, 2015, to BCLC from GPEB --

7 A No, I agree. I just don't have it. I'm just
8 trying to dig up the letter, that's all.

9 Q If I may assist, I believe the letter is
10 found -- do you have it before you, Mr. Smith?

11 A It seems to be, yeah.

12 Q And so you'll see this is an August 7, 2015
13 letter directed to Mr. Lightbody from
14 Mr. Mazure?

15 A Right.

16 Q Do you understand this to be the letter that's
17 referenced by the minister in paragraph 1 of his
18 October 1st, 2015 letter to yourself?

19 A Probably, yes. M'mm-hmm.

20 Q And if you look, the reference line or the re
21 line, enhancement to anti-money laundering
22 regimes in BC gaming facilities, matches the
23 description of the letter that was enclosed?

24 A Right.

25 Q And if you turn the page, you'll see Mr. Mazure

1 states:

2 "To enhance the AML regime BCLC is asked
3 to pursue the following activities."

4 And then there are four specific requests put
5 forward by the General Manager to Mr. Lightbody.

6 A Right.

7 Q Do you see that?

8 A M'mm-hmm. Sorry, do I see that, did you say?

9 Q That's right.

10 A Yes, I do see -- yes, I see it, yes.

11 Q And so my question to you, Mr. Smith, is whether
12 you understood Minister de Jong's direction to
13 you and specifically paragraph 1 that we just
14 reviewed to be a direction from the minister for
15 BCLC to take those actions that are set out in
16 this August 7, 2015 letter from Mr. Mazure?

17 A Yes.

18 Q Thank you. I won't have any further questions
19 about the August 7th letter, sir, so --

20 A Okay.

21 Q -- you can put that away if you want.

22 And turning back to the October 1st, 2015
23 letter from minister -- sorry, from Minister
24 de Jong to yourself, paragraph 1 that we were
25 just referring to.

1 A Yes.

2 Q Did you also understand this direction to be a
3 direction from your minister for BCLC to take
4 any subsequent actions with respect to AML that
5 may be set out in future letters from the
6 General Manager?

7 A Well, that's certainly what it says, yes. So
8 that --

9 Q And to the best of your -- thank you. And do
10 you recall whether at the time your expectation
11 was that BCLC would comply with this direction?

12 A Yes, it was my expectation that that's -- yes.

13 Q And do you recall whether you specifically
14 communicated that expectation to senior
15 management at BCLC?

16 A I don't, but the letter was carbon to the CEO of
17 BCLC, so when you get a directive letter from
18 your minister you're -- that's what it is, it's
19 a letter of direction from the minister. So I
20 would expect -- I don't think I would have to
21 confirm with the CEO that that's what it was
22 about or what it was for and what the obligation
23 was.

24 Q Okay. Thank you. And then with respect to
25 paragraph 3 in this directive from the minister,

1 Mr. McGowan asked you some questions about this
2 directive which deals with source of wealth and
3 source of funds. Do you recall that?

4 A Yes.

5 Q And my understanding of your response was that
6 there was a difference in views within the BCLC
7 executive about what that direction specifically
8 meant.

9 A Yes.

10 Q And one view within BCLC's executive was that
11 this was a direction from the minister for BCLC
12 to evaluate source of funds prior to cash
13 acceptance in all instances; is that right?

14 A That's correct.

15 Q And in response to Mr. McGowan's questions you
16 made reference to a draft letter, but the letter
17 was not put before you. And I think I can
18 assist in that regard.

19 A Okay.

20 MS. RAJOTTE: Madam Registrar, if we could please
21 pull up two documents. The first is
22 BCLC0011613, and the second document is
23 BCLC0011614.

24 A Okay.

25 Q And you'll see, Mr. Smith, the first document is

1 an email to you from Mr. Lightbody dated
2 October 24, 2015, attaching a draft letter in
3 response to the minister's October 1, 2015
4 letter we just reviewed; is that right?

5 A Yes.

6 Q And is your understanding that the draft letter
7 was prepared by Mr. Kroeker with input from
8 Mr. Lightbody and Mr. Desmarais and others?

9 A Yes.

10 Q And then if we could turn to the next document,
11 so BCLC11614. Is this the draft letter that was
12 attached to Mr. Lightbody's email?

13 A Yes.

14 Q And at the time did you understand this letter
15 to accurately capture BCLC's position?

16 A I think that's fair comment. The letter that
17 would be doing out over my signature, if it went
18 out, would be reviewed pretty carefully by me
19 and there may be some nuances that would change
20 or maybe even fundamentals that would change,
21 but generally speaking the answer to your
22 question is yes.

23 Q Thank you. And on that letter if we could turn
24 to -- well, you'll see at the bottom of the
25 first page of the draft letter, Mr. Smith,

1 you'll see it states:

2 "Third, you directed that BCLC."

3 And then if you turn the page there's a
4 reference to the direction that we reviewed with
5 respect to source of funds and source of wealth?

6 A Right.

7 Q And then if you look to the next page, page 3,
8 the beginning of the first paragraph reads:

9 "You have directed that BCLC evaluate the
10 source of wealth and source of funds prior
11 to cash acceptance in all instances."

12 Do you see that?

13 A Yes.

14 Q So is it your understanding based on this letter
15 that Mr. Kroeker, Mr. Lightbody and
16 Mr. Desmarais were of the view that this
17 direction from the minister was for BCLC to use
18 source funds prior to cash acceptance in all
19 instances?

20 A I don't know whether all three of them were of
21 the same view. As I said at the outset there
22 was a difference of view in the -- in our
23 executive and -- about what that meant. One of
24 the views was, as you have -- is -- as is
25 described there, but I wouldn't want to say that

1 all three of the names you mentioned, or any of
2 them, for that matter, subscribed to that view.
3 But there were people in the executive who did
4 subscribe to that view and indeed there may -- I
5 think there was at least one member of the board
6 who shared that view as well, is that's what the
7 words meant.

8 Q But it's fair to say, I take it from this
9 letter, that your recollection is that the draft
10 letter that was prepared by Mr. Lightbody,
11 Mr. Kroeker and Mr. Desmarais and others
12 responded to the minister's direction
13 interpreting it as such, that it requires source
14 of funds inquiries to be made in all instances;
15 correct?

16 A That's -- yes, that was one of the
17 interpretations of the letter, and at least of
18 the directive, the October 5th directive, and so
19 the letter, if the letter went, was -- clearly
20 would have laid that out. I mean, that was the
21 central part of the letter that -- for which
22 people sought clarification.

23 Q And I'm correct that BCLC did not implement a
24 directive to source funds from all players until
25 January of 2018?

1 A Yeah. Well, what actually happened is I
2 mentioned in my -- earlier on, is that I met
3 with the minister and asked about that
4 particular phrase in the letter of -- I think
5 it's October 15th -- whether that meant every,
6 you know, \$20 bill that came into the -- into a
7 casino or any amount of money, for that matter,
8 would have to -- the people would have to be
9 questioned and evaluated as to where they got it
10 from, what their source of the money was and so
11 on, the source of the funds. And the response
12 was no, no, that's not what I'm -- that is not
13 what I expect to happen; I expect that you will
14 be more diligent, and take -- you know, take
15 greater pains to find ways to track down the
16 source of wealth and the source of funds, but
17 it's still within the framework of doing it on a
18 risk basis, not on a prescriptive basis, which
19 was the interpretation, obviously, that some
20 people thought was in that October 15th letter.

21 So as soon as I heard that, I reported that
22 back to Mr. Lightbody and the letter didn't go
23 out.

24 Q Thank you, Mr. Smith. And I will have some
25 further questions about that meeting with the

1 minister. But just -- my question again was
2 that BCLC did not implement a directive to
3 source funds from all players until January of
4 2018. Do you understand that to be correct?

5 A I do.

6 Q And is it fair to say that one of the reasons
7 that BCLC waited approximately two and a half
8 years to implement a general source of funds
9 policy was a concern about potential revenue
10 loss?

11 A No.

12 Q If you could look a bit further down page 3 of
13 the draft letter that was prepared in response.
14 The third to last paragraph begins:

15 "Requiring every slot and table player to
16 submit a source of wealth and source of
17 funds evaluation prior to acceptance of
18 the funds is likely to result in
19 widespread business disruption and is
20 likely to have a very substantial adverse
21 impact on player visitation rates."

22 A M'mm-hmm.

23 Q And then a few lines down the draft letter
24 reads:

25 "Implementing a process that will require

1 source of wealth and source of funds
2 confirmation prior to any transaction will
3 in all likelihood put much of the
4 77 percent of slot and table revenue that
5 is cash based in jeopardy, the vast
6 majority of which presents no, or
7 extremely low, risk of money laundering."

8 Have I read that correctly?

9 A Right.

10 Q And that was BCLC's position at the time?

11 A Yes. But let me just, if I may, because I think
12 you're connecting the wrong dots with all due
13 respect. You asked me a question as to whether
14 or not we didn't implement the change until
15 January 18, 2018, was because of the concern
16 over the impact on cash. I think that was -- or
17 revenue. I think that was what you asked me,
18 and I said the answer to that is no. And now
19 you've brought forward this.

20 Here's what you should know: we didn't
21 implement it between my meeting with the
22 minister in 2018 [sic] because the minister's
23 word to me conveyed that he didn't want to make
24 a change away from the risk-based approach to
25 evaluating source of funds and source of cash.

1 It had nothing to do with revenue. It had to do
2 with basically he was saying look, carry on with
3 what I've told you several times in my mandate
4 letters that I want you to do what you're doing
5 on the basis of a risk analysis.

6 This letter, had it gone out, makes
7 reference to the source of -- or at least to the
8 amount of revenue for one very simple reason.
9 If you're making a significant policy change,
10 it's very important in government, as you
11 doubtless know, that the minister is fully aware
12 of all the implications of the change that is
13 being made. And so the letter, the October 15th
14 letter was a -- you know, a subparagraph in a
15 short sentence, which would have very
16 significant impact on revenue. And so all of us
17 thought when we send the letter off to the
18 minister it would be important to make sure that
19 the minister understands that is the outcome
20 of -- would be the outcome from that change.
21 It's not an editorial comment about whether it's
22 good or bad or indifferent. It's just trying to
23 get information to the minister to make sure we
24 corroborate with the minister before we make the
25 change that the minister is aware of that.

1 I particularly would be concerned about
2 that not because I'm concerned about the level
3 of revenue. Frankly I'm agnostic about that.
4 But what I am concerned about is I sign a
5 document annually called an accountability
6 statement, and that accountability statement
7 requires me to be accountable for the
8 projections that are made to treasury board with
9 respect to revenue and expenditures. And in
10 addition to that, there is a general requirement
11 inside government that if there's going to be
12 some significant change to your revenue stream
13 and so on, from what you project, you have an
14 obligation to let treasury board know at the
15 first opportunity.

16 So here we are at BCLC with a subclause in
17 a short sentence that would result in the
18 potential of many, many millions, maybe tens of
19 millions, maybe more than that, I don't know, of
20 revenue that would not come, in our opinion,
21 into the casinos. So I would have -- that would
22 impact the accountability statement that I had
23 already signed. And so I would have an
24 obligation not only to alert the minister but in
25 my humble opinion to alert treasury board. And

1 that is why, for instance, one of the people
2 named in this thing is the CFO. Because the
3 CFO, their neck is on the line even more so than
4 the chair of the board in an accountability
5 statement when you make great shifts in revenue
6 or expense in terms of your annual budget year.
7 So that's why that paragraph would be in that
8 particular draft letter.

9 Q Thank you, Mr. Smith. And I just want to
10 clarify. I think you may have misspoke with
11 respect to the year of the meeting with the
12 minister when you were responding you said you
13 met with the minister in 2018. Did you mean to
14 say 2015?

15 A Could be, yes. I met with the minister in 2018,
16 but 2015 -- if I was meeting with Minister
17 de Jong, clearly I was meeting him not in 2018.

18 Q Yes. And this was in reference to the meeting
19 where you discussed the letter --

20 A Yeah, okay. Yeah, you're right.

21 Q The -- the October 1, 2015 letter --

22 A If I said 2018, then I was wrong. It was 2015.

23 MS. RAJOTTE: Okay. Thank you. Mr. Commissioner,
24 could we please collectively mark as the next
25 exhibit these two documents.

1 THE COMMISSIONER: Yes, that's fine.

2 THE REGISTRAR: And the next number is 538,
3 Mr. Commissioner.

4 THE COMMISSIONER: Thank you.

5 **EXHIBIT 538: Consisting of two documents:**

6 **1. Email to Bud Smith from Jim Lightbody, re**

7 **Letter to Minister re AML - October 24, 2015**

8 **2. A draft letter in response to the letter**

9 **from the Minister regarding BCLC's AML approach**

10 MS. RAJOTTE:

11 Q So, Mr. Smith, I have a few questions for you
12 about this meeting with Minister de Jong in 2015
13 when you discussed the source of funds
14 directive. Do you recall when that meeting took
15 place?

16 A I don't. But it clearly takes place between
17 October 15 and when this draft letter was
18 intended to go out. And I'm not quite sure
19 where that is -- sorry, October 1, I believe,
20 was when the -- when we -- I don't know whether
21 when we got the letter, whether we got it on
22 October 1 or not, to be honest with you, but
23 there would have been a board meeting following
24 that date of October 1, and then the direction
25 for me to sign a letter that would go to the

1 minister. So it's in that time range somewhere.

2 Q If I may -- I think I can assist.

3 Madam Registrar, if we could please pull up
4 exhibit 513, which is BCLC0015150.

5 Mr. Smith, do you have that document before
6 you?

7 A I don't. Just a minute. Okay. I have the
8 meeting minutes now, yes.

9 Q So do you recognize these as the meeting minutes
10 for the BCLC board meeting held October 29th,
11 2015?

12 A Yes.

13 Q And you were present at that meeting?

14 A Yes.

15 Q And if you turn to the final page, page 7 of
16 those minutes.

17 A Yes.

18 Q Item 9.1, response to minister's letter?

19 A Right.

20 Q And it reads:

21 "Bud Smith reviewed issues arising from a
22 recent directive received from the
23 minister. Discussion followed as to the
24 most appropriate board response. Given
25 management estimates the effect of the

1 direction for BCLC if fully implemented
2 would be hundreds of millions of dollars,
3 the board directed that the chair seek a
4 meeting with the minister to review
5 implications of the directive."

6 A Right.

7 Q Do you understand this to be in reference to the
8 minister's October 1, 2015 letter we've been
9 discussing?

10 A Yes.

11 Q And so am I correct, then, that your meeting
12 with the minister to discuss the directive would
13 have taken place sometime after October 29,
14 2015?

15 A I would agree with that, yes. Yep.

16 MS. RAJOTTE: Madam Registrar, if we could please
17 pull up two documents, BCLC0016566 and
18 BCLC0016567.

19 Do you have those documents before you,
20 Mr. Smith?

21 A I do, yes.

22 Q And you'll see the first is an email from
23 Mr. Lightbody to yourself dated November 17th,
24 2015, attaching briefing materials for a meeting
25 with Minister de Jong?

1 A Yes.

2 Q And the second document are those briefing
3 materials for the meeting on November 18th,
4 2015, the following day?

5 A It is. Yes.

6 Q Do you recall whether this is the meeting when
7 you discussed the October 1 directive with
8 Minister de Jong?

9 A I don't, but it may be. There's a meeting that
10 happens which is one I think is involved where I
11 was in Victoria and I was invited in by Brian
12 Menzies, who was the chief of staff to the
13 minister, and I went into the minister's office
14 with him after he'd finished up a meeting
15 involving his role as house leader and discussed
16 that earlier letter. That's when I believe it
17 happened, but I could be wrong. Maybe it's this
18 meeting.

19 Q I can tell you if it assists, and I'm not sure
20 we need to go there, but if we do just let me
21 know. In Mr. Lightbody's affidavit that's been
22 entered into evidence in this proceeding at
23 paragraph 199 he states:

24 "As president and CEO, I assisted BCLC's
25 chair, Mr. Smith, prepare for meetings and

1 communications with the minister. For
2 example, exhibit 76 --"

3 Which, attached, are these two documents that we
4 were just reviewing?

5 A Yes.

6 Q "-- is an email I sent to Mr. Smith dated
7 November 17, 2015, attaching background
8 materials for a meeting with Minister
9 de Jong on November 18, 2015. This
10 meeting was arranged further to the letter
11 from Minister de Jong to Mr. Smith dated
12 October 1, 2015, attached above as
13 exhibit 53."

14 A Right. Okay.

15 Q Does that assist, Mr. Smith, with refreshing
16 your memory whether this November 18, 2015
17 meeting was the meeting in which you discussed
18 the source of funds directive with Minister
19 de Jong?

20 A It actually doesn't, but as I said earlier, it's
21 possible that I have for some reason in my
22 memory bank a very brief meeting that was pretty
23 ad hoc where I -- as I say, I was in Victoria
24 and ran into Brian Menzies, or he signaled me
25 into the office or something and that it was in

1 association with that event that I had that
2 earlier discussion. There was something that
3 triggered it so that the letter did not go out,
4 and the something is that I learned from the
5 minister that that isn't what he wanted done,
6 and therefore there was no point in sending the
7 letter.

8 Q And so the meeting with the minister when you
9 discussed what he meant by the source of funds
10 directive, was anyone else present other than
11 you and the minister?

12 A I believe Brian Menzies was president --
13 present, sorry, but if it was this meeting, then
14 it would be the minister and Jim Lightbody and
15 myself and I suspect Brian Menzies as well. I
16 don't know that, but generally ministers have
17 someone with them in any meeting.

18 Q And so my understanding based on your evidence
19 is that the minister clarified he did not mean
20 for you to source all funds and his direction
21 was to sort of stay with the risk-based
22 approach. Do I have that right?

23 A You do.

24 Q Did the minister confirm this clarification of
25 his October 1, 2015 directive in writing to

1 BCLC?

2 A I don't think so. But I don't know. He may
3 have. I don't recall it. The other thing is,
4 too, sometime things would go from the minister
5 to the CEO that I wouldn't necessarily see.

6 Q Do you recall whether you asked the minister to
7 confirm this clarification of this directive in
8 writing?

9 A No. I was quite happy to hear him tell me. I
10 didn't -- the point was is that there was a
11 misinterpretation amongst our people of what it
12 meant, and I just wanted to hear what his
13 interpretation was. But the facts -- sorry,
14 carry on.

15 Q No, go ahead, Mr. Smith.

16 A No, that's fine.

17 Q Do you recall whether you communicated with
18 anyone at the Gaming Policy Enforcement Branch
19 this clarification that the minister had
20 provided with respect to his direction?

21 A No. You know, I don't think I had any
22 communication with GPEB other than meetings I
23 was in in which GPEB were present, minister --
24 with Minister de Jong, for instance a meeting in
25 September of 2015 and Minister Eby, a meeting in

1 October, I believe, of 2017. I don't think I
2 had communications with GPEB. It would -- it
3 would have been out of sync with reasonable
4 governance protocols. You know, I would be
5 communicating with -- if I was communicating
6 with GPEB I would be communicating with an
7 official, the official being probably
8 Mr. Mazure, and I'm not an official as a
9 governance chair, I'm not an executive chair, so
10 I would be surprised if there's any
11 communication between me and GPEB formally,
12 other than in meetings where we're all present.

13 Q And no one was -- to the best of your
14 recollection no one from GPEB was present at
15 your meeting with the minister when he clarified
16 what he meant by the source of funds directive;
17 correct?

18 A That's correct.

19 Q So looking at the --

20 A By the way -- sorry to interrupt you, but the
21 minister wasn't seeking clarification. We were.
22 The minister wasn't confused about what was
23 meant by what he said. It was we who were
24 confused. And that's really the long and the
25 short of it. So I don't think the minister

1 would feel any need to send something along in
2 writing to clarify it, because I think he
3 probably thought it wasn't unclear in the first
4 place.

5 Q And if we look at the -- if we could just take a
6 moment to look at the content of the briefing
7 materials that were used in the November 18,
8 2015 briefing of Minister de Jong.

9 A Right.

10 Q And so if you look at these briefing materials,
11 to the best of your recollection, or do you not
12 have a recollection one way or the other, do
13 these briefing materials accurately reflect the
14 content of that briefing that took place on that
15 day?

16 A I really don't know whether they would or they
17 wouldn't. Sometimes in these meetings, the
18 meeting will take a direction that the briefing
19 materials didn't contemplate, and that happens.
20 It's got nothing to do with BCLC and its
21 minister. That's just the way government
22 operates. So I honestly couldn't say whether
23 this -- these briefing materials tracked
24 whatever did or didn't take place in that
25 meeting.

1 Q Okay. So the briefing with respect to AML is
2 set out on pages 3 and the top of page 4 of the
3 materials and if we look at the fifth bullet
4 point the materials state:

5 "A relatively few number of high-value
6 patrons account for significant gaming
7 revenue to the province. These clients
8 have a preference for cash transactions,
9 for a number of reasons including
10 cultural, and as a result account for a
11 disproportionate number of STRs."

12 Do you see that?

13 A Yes.

14 Q Do you have a recollection of -- I take it
15 that's what you advised the minister in this
16 briefing that a small number of high-value
17 patrons account for significant gaming revenue
18 to the province?

19 A Well, that was in fact correct. I believe you
20 might be able to find it somewhere in some of
21 BCLC's own statistical material, is that there
22 was -- the numbers -- somewhere between 2 and
23 300 stick out in my head, of high-value patrons
24 who dropped a lot of money in these baccarat
25 games.

1 Q And it was your understanding and you informed
2 the minister that these clients have a cultural
3 preference for cash; is that right?

4 A I don't know whether I would have or anyone
5 would have informed the minister of that, but
6 you know, the briefing note, if that's what it
7 says, that would go over -- I don't -- yeah.

8 Q And the statement that these patrons account for
9 a disproportionate number of STRs, what is
10 that -- the significance of that? Is that
11 explaining that's why there are so many
12 Suspicious Transaction Reports being filed at
13 that time?

14 A Well, I think -- yeah, well, I don't know
15 whether -- I don't know whether they account
16 for, you know, for all of the STRs, but as a
17 cohort, I think what that's reflecting is that
18 many of their transactions raise a question of a
19 suspicious transaction report.

20 Remember suspicious transaction is just
21 that. It doesn't -- it doesn't imply wrongful
22 transaction. It just -- it's a set of criteria
23 that FINTRAC has that if you achieve that, you
24 have to file a suspicious transaction report,
25 and I -- I don't know whether size of

1 transaction triggers that or not. It may. I
2 don't know. I can't remember.

3 Q And so I take it from your evidence earlier
4 today that you did not inform the minister in
5 this briefing or in any briefing in 2014 or 2015
6 that BCLC had learned through patron interviews
7 that players were gambling in BC casinos with
8 borrowed funds from unknown sources and that
9 those loans were being repaid, sometimes in
10 China.

11 A Yeah, I don't recall doing that, no.

12 Q And I don't -- I can tell you I've reviewed the
13 briefing materials from this meeting and I don't
14 see that information in there.

15 A Right.

16 Q But as of this November 18, 2015 briefing, that
17 was information that the BCLC executive and
18 board had; correct?

19 A Yes.

20 MS. RAJOTTE: Thank you. Mr. Commissioner, if I
21 could please mark these two documents as the
22 next exhibit, collectively.

23 THE COMMISSIONER: Yes, very well.

24 THE REGISTRAR: Exhibit 539, Mr. Commissioner.

25 **EXHIBIT 539: Consisting of two documents:**

1 **1. Email to Bud Smith from Jim Lightbody, re**
2 **Background material for tomorrow - November 17,**
3 **2015; 2. BCLC Briefing for Minister Michael de**
4 **Jong - November 18, 2015**

5 MS. RAJOTTE:

6 Q Mr. Smith, the last document I will take you to
7 is BCLC0015264.

8 Madam Registrar, if we could please pull it
9 up. Thank you.

10 Do you have that before you, Mr. Smith?

11 A I do.

12 Q So this is, I understand, to be the report to
13 the board from management on corporate security
14 and compliance for the board meeting that was
15 held October 29, 2015?

16 A Right.

17 Q And my understanding from your evidence and from
18 reviewing your affidavit is that most, if not
19 all, of your information as chair about money
20 laundering in BC casinos, including the extent
21 to which significant amounts of crime proceeds
22 may be being used to buy in to BC casinos, was
23 presented in management reports that you
24 received as a member of the board; is that
25 right?

1 A Yes, it is correct.

2 Q And is this -- this is an example of one such
3 report?

4 A Yeah. Unfortunately there's big gobs of it
5 redacted, I notice, but yes, it is an example.

6 Q Yes. And you would have reviewed this report in
7 connection with the October 29, 2015 board
8 meeting; is that right?

9 A Yes. This report -- or something similar to
10 this would have been at every one of our board
11 meetings. Each one of the -- of members of the
12 executive team who were responsible, you know,
13 for whatever part of the organization they're
14 responsible for, would have a report at each
15 board meeting, and in addition to things that
16 they wanted to get a decision about and so on.
17 So what you're looking at is a pretty typical
18 report that we would have at each meeting.

19 Q Thank you. And if we could turn to page 3 of
20 this report, that's where we see the content
21 that relates to AML?

22 A Right.

23 Q And you'll see under -- there's a subheading,
24 "Player Conditions," and then three paragraphs
25 down this report reads:

1 "As of October 15, 2015, 13 patrons have
2 been interviewed and many have stated that
3 the cash/chips are 'borrowed' from unknown
4 sources and paid back via bank
5 transactions in China and/or Canada. In
6 some cases the patron has stated that they
7 are unaware as to whom they are paying the
8 gambling debt."

9 A Right.

10 Q Correct?

11 A Yes.

12 Q And so as you said earlier in answer to my
13 question, it's clear from this report that at
14 least as of the end of October 2015, the senior
15 executives and members of the BCLC board were
16 aware that this information had come out as a
17 result of patron interviews; correct?

18 A Yes.

19 MS. RAJOTTE: Madam Registrar, if we could please
20 mark this document as the next exhibit.

21 THE WITNESS: It actually shows when that I'm
22 thinking about it now that our compliance people
23 really had a knack for or a relationship with
24 the patrons to elicit some pretty interesting
25 information. You know, I don't think something

1 like this would just come out as you were
2 walking by one another in the hallway.

3 MS. RAJOTTE:

4 Q Yes. Yes, that's right. But as you confirmed
5 earlier in your evidence --

6 THE COMMISSIONER: Sorry, I'm just going to say do
7 you want that marked?

8 MS. RAJOTTE: Yes, please, Mr. Commissioner.

9 THE COMMISSIONER: 540.

10 THE REGISTRAR: Exhibit 540.

11 **EXHIBIT 540: Board Meeting - October 29, 2015 -**
12 **Management Report - Corporate Security &**
13 **Compliance (redacted)**

14 MS. RAJOTTE:

15 Q And so just to confirm your earlier evidence,
16 Mr. Smith, though, this information did not make
17 its way into the briefing of Minister de Jong
18 with respect to AML in 2015; correct?

19 A That's correct. But you should also be aware
20 that the minutes of the meetings at BCLC were
21 provided to or at least available to the ADM
22 Cheryl and I don't know who else, so there was
23 no sense of the ministry and therefore the
24 minister not being able to have all the
25 information that was potential to be available.

1 Q Were the minutes of the meetings provided to the
2 Associate Deputy Minister in the regular course?

3 A I believe so, yes.

4 Q And would that include the management reports
5 that were reviewed at the meeting?

6 A Yes. And the -- in addition to that, at our
7 meetings the deputy auditor general for British
8 Columbia was present, for most meetings anyway,
9 and there was -- you know, these reports and
10 minutes and discussion would all be something
11 that the deputy AG would have available as well.

12 MS. RAJOTTE: Thank you, Mr. Smith. Those are all my
13 questions for you.

14 THE WITNESS: Thank you.

15 THE COMMISSIONER: Thank you, Ms. Rajotte. I'll now
16 turn to Mr. McFee on behalf of Mr. Lightbody,
17 who has been allocated 20 minutes.

18 MR. McFEE: Thank you.

19 **EXAMINATION BY MR. McFEE:**

20 Q Mr. Smith, I just want to focus for a moment on
21 this -- what arose after the October 1st, 2015
22 letter from the minister. And just for the
23 context, you understood as BCLC's chair that
24 BCLC had been following a risk-based approach to
25 its AM L regime up until that point in time?

1 A That's correct, yes.

2 Q And as you told the Commissioner, there was some
3 debate within the board and the senior
4 management as to whether or not the October 1st
5 letter from the minister was directing that BCLC
6 pivot away from a risk-based approach to a
7 prescriptive approach; is that fair?

8 A Yes, it is fair.

9 Q And that's what you clarified with the minister
10 in this meeting you had that you've described --

11 A Correct.

12 Q -- to the Commissioner?

13 A That's correct.

14 Q And Ms. Rajotte asked you if the direction, as
15 she put it, to sort of stay a risk-based
16 approach was ever confirmed to the minister in
17 writing, and your answer as I recall it -- and
18 I'm not a great note taker -- but it was, I
19 don't think so; we may have. Was that fair?

20 A That's correct. I certainly didn't get a letter
21 from him, but there may have been a letter that
22 went to the CEO. I don't know. But I don't
23 have any record of a letter that came to me from
24 the minister.

25 Q But you have told the commission that you in

1 your capacity as chair received annual mandate
2 letters from the minister?

3 A Yes.

4 MR. McFEE: Okay. And, Madam Registrar, if I could
5 ask you to bring up exhibit 501, which is the
6 overview report that attaches the mandate
7 letters, please. And I'm going to be looking
8 for the -- I unfortunately don't have an
9 appendix number, but it's the mandate letter for
10 the 2016, 2017 fiscal year. It's a letter of
11 January 29th, 2016. If you could just maybe
12 scroll up. You'll find the index. If I could
13 stop -- maybe I could ask you for, Madam
14 Registrar, to go to appendix 11, please. And
15 it's January 29th, 2016, letter from Minister
16 de Jong to you. Do you have that, Mr. Smith?

17 A I do.

18 Q And just to be clear, in the first paragraph
19 this says:

20 "This mandate letter confirms your
21 organization's mandate, provides
22 government's annual strategic direction
23 and sets out key performance expectations
24 for the 2016/17 fiscal year."

25 Now, as I understand it, and correct me if I'm

1 wrong, government works on an April 1st to
2 March 31st fiscal year.

3 A I believe that's correct. Did when I was there,
4 anyway.

5 Q So this would be April 1st, 2016, to March 31st,
6 2017?

7 A That's correct, yes.

8 Q And just to be clear, this would be the mandate
9 letter than you received from the minister
10 directly after you had this discussion with him
11 in the fall of 2015?

12 A It certainly comes after that discussion, that's
13 correct, yes.

14 Q And if you could go over to page 2, please. And
15 you'll see in the middle of the page it's got in
16 italics:

17 "The Lottery Corporation is responsible
18 for the conduct and management of gaming
19 on behalf of government."

20 The minister then says:

21 "To achieve this mandate, BCLC is directed
22 to take the following strategic actions."

23 Do you have that?

24 A Yes.

25 Q If I could ask you to go over to the next page,

1 please, page 3.

2 A Yes.

3 Q You'll see item number 4. Do you have that?

4 A I do.

5 Q It says:

6 "BCLC will provide a quarterly report to
7 the Minister of Finance on the
8 implementation of the government's
9 anti-money laundering strategy and
10 mitigation of relate it had illegal
11 activities. This will include, but not be
12 limited to ..."

13 And then if I could ask you to go down to
14 subparagraph (c). Do you have that?

15 A I do.

16 Q It says:

17 "The implementation of anti-money
18 laundering compliance best practices with
19 appropriate consideration of evaluating
20 the source of wealth and source of
21 funds ..."

22 Stopping there. You'll recognize that's the
23 same type of language that was used in the
24 October 1st, 2015 letter evaluating the source
25 of wealth and source of funds?

1 A Yes.

2 Q The ministers goes on:

3 "... prior to cash acceptance within a
4 risk-based framework."

5 Do you see that?

6 A Yes, I do.

7 Q And did that provide you with confirmation in
8 writing from the minister that what you had been
9 told in this meeting was in fact the minister's
10 wishes to stay with a risk-based approach?

11 A Now that you raise it, the answer is yes. But I
12 truthfully didn't think about it at that time
13 when I got the letter. But the point is is that
14 the minister throughout the time I was the
15 chair, both ministers, directed us to use a
16 risk-based framework for dealing with source of
17 wealth and source of funds. And did not deviate
18 from that. And so -- yeah. That was consistent
19 throughout.

20 So the letter we've all been talking about
21 would have been, you know, the equivalent of a
22 sore thumb sticking up. It was completely out
23 of sync with everything else that was said
24 before and after about using a risk-based
25 approach.

1 Q And just to focus on that for a moment. In
2 terms of the mandate letters that you received
3 from Minister Eby after the summer of 2017
4 change of government, did they continue to
5 direct BCLC to follow a risk-based approach in
6 its anti-money laundering regime?

7 A I believe so, yes.

8 MR. McFEE: Madam Registrar, that exhibit can be
9 brought down. Thank you.

10 Q Now, I just want to switch topics a bit and go
11 back to cash alternatives. And in your
12 affidavit you indicated that you were keenly
13 interested in that initiative and supported the
14 efforts of BCLC's management to move from a
15 cash-only business to one that incorporated
16 alternatives to cash?

17 A Yes.

18 Q Do you recall that?

19 A Yes.

20 Q Now, just in focusing on that, what was your
21 perspective at the time when these cash
22 alternatives were being implemented, which was
23 early in your tenure on the board, as to the
24 challenges that BCLC would face in moving from
25 what had been a decades-long cash-only business

1 to one that offered alternatives to cash?

2 A The word "Herculean" comes to mind. One of the
3 things -- I've been in, owned and operated a
4 number of small businesses that are service
5 oriented, and one of the things I've learned
6 throughout my lifetime is that we actually train
7 our customers by certain behaviours we have and
8 certain rules we set up.

9 And I'll give you a simple example. I owned
10 a travel business, and my staff sometimes in our
11 staff meetings would complain that customers,
12 you know, they were always focused on price,
13 they weren't focused on value. And so I said to
14 them one day, have you ever looked at your
15 advertising that you put out on TV and radio and
16 newspapers? You constantly talk about we'll get
17 you the lowest price; it's not surprising your
18 customers therefore come in and only talk about
19 price and not about value; you've trained them
20 that that's what your role is. And similarly,
21 in my humble opinion, in British Columbia we
22 trained as a province, as a government --
23 governments, all three political parties,
24 frankly, that have been government throughout
25 this, trained people who are in -- wanting to be

1 gaming -- customers and participants in the
2 gaming business that they would use cash, that
3 cash was the only thing they could use, it was
4 the proper thing to use, and it was government
5 policy, and indeed even beyond that, it somehow
6 protected them from not getting in over their
7 head if they had been allowed to use, for
8 example, credit cards.

9 So if you've got two decades of training
10 about using cash and then you come along and you
11 say look, not only are we going to allow you to
12 use other things besides cash, but now we want
13 you to get out of cash and use alternatives to
14 cash, that's going to be a very big, big task to
15 do that. It's not something that will happen
16 overnight and still allow you to operate your
17 business successfully.

18 Q When you say this wasn't something that was
19 doing to happen overnight, in terms of this
20 Herculean task, as the chair of the board did
21 you have a perspective at the time as to how
22 long realistically it would take to change that
23 culture and move particularly these high-value
24 players to cash alternatives?

25 A No, I didn't have sort of a date certain in

1 mind, but when you're changing people's habits
2 in that way, there's all sorts of things that
3 come into play. One of the things that I think
4 was an advantage, when I look at it with the
5 perfect 20/20 hindsight that everyone involved
6 in this thing is doing, is that the know your
7 customer exercise that our people went through
8 was probably actually helpful in trying to move
9 some of those big players over to a non-cash
10 alternative because in the know your customer
11 exercise, there was inevitably a kind of a --
12 well, first of all, there was a good level of
13 communication built up, but I think it's fair to
14 say there was also some trust built between
15 those players and the people that they would be
16 talking to about their source of wealth and that
17 sort of thing. And I think that may very well
18 have made it possible to suggest to them that
19 they would be better served or certainly
20 wouldn't be more poorly served if they moved to
21 cash alternatives.

22 Q And in your time as chair was there ever any
23 suggestion from GPEB, the regulator, that BCLC
24 should cut cash off entirely and just operate on
25 cash alternatives?

1 A I don't know whether there was any directive
2 from them or something specific from GPEB, but
3 certainly there was a lot of words written and
4 spoken that would lead you to that conclusion.
5 And as well I think it was GPEB engaged an
6 accounting firm who came up with that -- you
7 know, with that recommendation.

8 Q Was the recommendation, as you recall it, from
9 the accounting firm that there be no cash at all
10 in casinos or that they might want to prescribe
11 cash caps or thresholds?

12 A I think it was caps. Yeah, I think it was caps.

13 Q And switching topics for a moment. You were
14 questioned by Ms. Rajotte about this management
15 briefing and that some of -- a small number of
16 the high-value patrons accounted for significant
17 gaming revenues in the BC casinos, so these were
18 these high-limit table players as I understand
19 it.

20 A Yes, that's what I understood, yes.

21 Q And you've told the Commissioner about your
22 discussions with the two different ministers
23 about BCLC or the government may wish to exit
24 that business and you were ignored. Do you also
25 recall that at the time you were the chair that

1 the BCLC management brought to the board, and it
2 was approved, a strategy called the table game
3 strategy that was specifically designed to grow
4 BCLC's business from the casual, light and
5 medium players and away from the high-limit
6 players?

7 A Yes. One of the -- sorry, go ahead.

8 Q No, you go ahead.

9 A Well, one of the things that we spent quite a
10 bit of time dealing with as a board and as a
11 board and management was the thing that quite
12 frankly all businesses have been dealing with,
13 which is a generational change, is that there
14 are -- the people who the business was built
15 around are getting older, and the people that
16 you are going to have to service don't have the
17 same views towards some of the -- some of the --
18 you know, some of the rules and so on that were
19 in place. So those light and casual players or
20 nonexistent players, as in any service business,
21 are an audience that you want to engage and you
22 want to find out how you can get them to come
23 and play your games and be involved in being a
24 customer of your business. And so yeah, we --
25 when I say "we" the management of BCLC -- spent

1 a lot of time around that topic and discussed it
2 a lot with the board, for sure.

3 Q And do you recall that the board endorsed that
4 strategy and authorized management to pursue it?

5 A Oh, absolutely. I mean, if you're going to be
6 in business over the long haul, you've got to
7 change as your customers change generationally.

8 Q And if I can change topics again for a moment.
9 I just want to come back to this September 15th
10 meeting that you described. It's described in
11 your affidavit briefly or referenced with
12 Minister de Jong.

13 A Okay.

14 Q Now, that September 2015 meeting, so this is a
15 meeting that precedes the October 1st, 2015
16 letter from the minister, but do you recall that
17 there was discussion at that meeting,
18 particularly emanating from you about the need
19 for law enforcement to get actively engaged in
20 AML measures?

21 A Yes. There were a couple of things that I
22 recall were discussed in that regard. One of
23 them related to what I sensed was a problem for
24 our service providers who would -- you know,
25 they had to make reports out about suspicious

1 transactions and wrongful behaviour and so on,
2 and that -- those reports would come to us, to
3 BCLC, and we then shared those reports with law
4 enforcement. The service provider giving us a
5 report about wrongful behaviour, not to
6 understate it, was marginally useless because we
7 had no authority to do enforcement. So one of
8 the things that I was interested in exploring
9 and did talk to our minister about or raise was
10 whether or not it would be possible to have GPEB
11 personnel in the casinos, particularly during
12 that period when a lot of these transactions
13 took place in the evening and late at night and
14 so on, so that if something arose for the
15 service provider that needed to be investigated,
16 it would be done in a really timely way.
17 Because the way the system operated, a report
18 would go out and another report would go out and
19 then someone would engage an unfortunate person
20 who would go in and do an investigation. At
21 minimum that was 24 hours, and likely
22 considerably more than that. And so that I know
23 was frustrating for our service providers. And
24 so I know I raised that.

25 The other thing that I raised was the

1 illegal gaming facilities in Metro Vancouver. I
2 just felt not enough was being done to take down
3 those facilities, and they were present and
4 probably still are and I just felt that the
5 enforcement wasn't doing enough to deal with it.

6 Q And just to be clear, Mr. Lightbody was at that
7 meeting?

8 A Yes.

9 Q And do you recall giving the minister an example
10 of how little investigative effort was needed to
11 find the location of where these illegal casinos
12 were operating?

13 A Yeah, I don't know whether I'm an expert in
14 degrees of investigative effort, but I had cause
15 myself to be aware of the address of one of
16 these facilities, and I shared that at that
17 meeting, and indeed there was an investigation
18 that went to that facility and when the people
19 arrived, the facility had been shut down. There
20 was -- you know, there wasn't anyone in it.

21 Q You've already told the commission you don't
22 have any police or law enforcement background?

23 A That's correct.

24 Q Beyond having been the AG, so being the chief
25 justice official of the province. But how was

1 it that you then became aware of this illegal
2 casino? How did you find the address?

3 A Well, I heard about these things, and I heard
4 that there was difficulty for people, you know,
5 to get them. So anyway, I made -- over the
6 years I have connections to various people, and
7 I made a few phone calls, and lo and behold up
8 came the address that turned out to be one of
9 these facilities.

10 Q And in this --

11 A But I don't want to -- in saying this I don't
12 want to sound like a smart aleck or someone who
13 has more skill than the people who are paid
14 handsomely to do this work, and I don't want to
15 be one of these people who dump on the police
16 all the time. They sometimes have got other
17 things that are higher priority. I was just
18 trying to make the point that there were often
19 excuses made that this was a hard thing to do,
20 needed further investigation and so on, and I
21 was just trying to point out that in some
22 instances perhaps it wasn't quite as hard as it
23 was made out to be.

24 Q And within five or six weeks of this meeting do
25 you recall being advised that the minister was

1 supportive of forming an integrated gaming
2 enforcement team under the combined forces
3 special enforcement unit?

4 A Yeah. You're talking about JIGIT now?

5 Q Yes.

6 A Yeah. Yes. Well, he indicated at the meeting
7 that something along those lines was in his
8 head, and then sometime after that formally we
9 were advised it had occurred, yes.

10 Q And in this meeting do you also recall
11 discussing the need for greater information and
12 intelligence sharing between all of the players,
13 including BCLC, GPEB, service providers and law
14 enforcement?

15 A Yes. I said words to the minister in that
16 meeting that I said in writing to Minister Eby,
17 namely that I thought amongst the parties the
18 gathering of intelligence and information was
19 strong. I thought that the sharing of that
20 information was what I described as spotty, and
21 that would include us as well at BCLC.
22 Sometimes things didn't get shared and they
23 should have been shared, and certainly coming
24 the other way it didn't get shared when it
25 should have. And that I thought that

1 enforcement -- and I think I used the words --
2 you know, I was reporting to the minister more
3 out of sadness than accusation that it was my
4 observation that enforcement ran somewhere
5 between weak and nonexistent.

6 Q Focusing on the information sharing for a
7 moment, do you recall learning in June of 2017
8 that JIGIT and GPEB were convening a press
9 conference to announce arrests arising from an
10 investigation into an organized crime network
11 that allegedly was connected to illegal gaming
12 and money laundering in BC casinos?

13 A I don't know if I recall being apprised of that
14 before it occurred, but I certainly was aware of
15 it happening when it did.

16 Q We've seen evidence that the press conference
17 occurred on June 13th, 2017. Do you recall
18 relative to the commencement of the press
19 conference when you learned about it for the
20 first time?

21 A Well, I think I learned about it as it was
22 actually happening. It was quite a televised
23 event. You know, there was -- you know, guns
24 and drugs and money and all sorts of things.
25 Lots of -- lots of photo-friendly material was

1 out and about on tables, and the announcement
2 was that these people -- that there were people,
3 I think there were nine or something, eight or
4 nine -- I can't remember the number -- had
5 actually been arrested, and these were
6 significant criminal players who had been
7 involved in the drug business and in money
8 laundering and in violence and that sort of
9 thing, which -- and that they were in casinos,
10 that they participated in casinos, which from
11 the point of view of information sharing was
12 staggeringly shocking to me that we would
13 have our law enforcement, both of them, be
14 mindful and aware of this and not participate in
15 the protocol that we assiduously developed over
16 a number of years to have a system where if
17 there are undesirables, I think the euphemism
18 is, we're told about it so that we can ban them,
19 bar them from the casinos. And the reason for
20 that is the same reason -- it's the same program
21 that was developed in the clubs on Granville
22 Street many years ago. The reason for that is
23 twofold. One, you don't want these people in
24 your club. And secondly, they get a lot of
25 schtick out of being associated and flaunting

1 their wealth and walking around with nice gold
2 chains around their neck and so on in these
3 places with their friends. It turns them into a
4 big shot. And so you just take away that
5 element from them. So it's a very good system
6 and it is seems to work. And it was shocking to
7 me, as I say, that if indeed our law enforcement
8 agencies with whom we had that protocol were
9 aware of this that they hadn't told us.

10 Q And do you recall that after this press
11 conference BCLC sought the names of the
12 individuals arrested?

13 A I am aware of that, and not only did -- I know
14 that BCL sought the names because the board
15 would natter at our management at every meeting
16 afterwards, have you got these names; have we
17 banned these people from the casinos? And that
18 then really ramped itself up about two or three
19 months after this event when in Chicago -- or at
20 least in Las Vegas a lunatic had -- who was, you
21 know, a so-called elephant gambler, well known
22 to the casino and so on, spent a lot of time
23 there over the years, unfortunately the -- you
24 know, the bell people and so on helped him carry
25 all his suitcases up to the -- up to the rooms

1 and in those suitcases were machine guns. And
2 he killed many people. And a lot of those
3 people -- or some of those people, by the way,
4 were from British Columbia. A young woman with
5 whom I work was one of them. So I was very
6 familiar with this and the shock it had on them.
7 And here we have people -- it is announced by
8 our own law enforcement agencies who have the
9 same capacity as what happened in Las Vegas,
10 wandering in and out of our casinos apparently,
11 and they don't tell us. And so that put us in
12 the extraordinary invidious position, as BCLC,
13 of being possessed of this knowledge that there
14 are people who are described as major criminals
15 and violent people, with pictures of all the
16 apparatus they had to kill people, all the
17 weapons, and we are not given their names by law
18 enforcement so we can ensure that they don't get
19 into our casinos. And quite honestly, by the
20 time I left BCLC in 2018 because at the last
21 meeting I attended the question was asked of our
22 management, have we still -- have we learned yet
23 the names of these people, and at that time when
24 I left BCLC had not learned, and that's -- I
25 don't know, two years later or something.

1 Q And in your departure letter to Minister Eby
2 that's attached to your affidavit, we don't need
3 to go through it, but your May 30th, 2018
4 letter, one of the matters you raised with
5 Minister Eby was once again seeking the names of
6 these nine individuals so they could be banned
7 from BC casinos. Do you recall that?

8 A Yes, I do recall it, yep.

9 Q And did you receive a response from Minister
10 Eby?

11 A Well, I went, I think, hours after that letter
12 went, so I was done. So I don't know what
13 response came to BCLC. I didn't personally get
14 a response. But I left pretty quickly after
15 that letter. That letter is dated the 30th of
16 May, and my term expired the next day.

17 MR. McFEE: Those are my questions for you. Thank
18 you.

19 THE COMMISSIONER: Thank you, Ms. McFee.

20 I'll now call on Ms. Peddle on behalf of
21 Roberts Kroeker, who has been allocated five
22 minutes.

23 MS. PEDDLE: Thank you, Mr. Commissioner.

24 **EXAMINATION BY MS. PEDDLE:**

25 Q Mr. Smith, can you hear me okay?

1 A I can, thank you.

2 Q Do you recall that in September 2015 GPEB
3 engaged MNP LLP to audit select transactions at
4 the River Rock Casino?

5 A Yes, but it's kind of hearsay. I knew that
6 secondhand, but yes, I was aware that that had
7 happened.

8 Q And were you aware that MNP had asked for a
9 large number of corporate records, including
10 those containing personal information of BCLC --
11 or patrons at BC casinos?

12 A Yes.

13 Q Do you recall a concern on BCLC's part about the
14 lack of security and confidentiality measures in
15 place?

16 A Yes. I recall what happened was is MNP wanted
17 to get the records in bulk and, I don't know,
18 maybe to where their office is here in town or
19 in Calgary or whatever, and when we do audits of
20 that sort, people come into our office and look
21 at the information in the office for the obvious
22 reason of privacy and disclosure and so on. We
23 didn't want, you know, all that kind of
24 information floating around on a chip someone's
25 carrying around in their hip pocket and have it

1 get lost. So yes, we were pretty insistent that
2 if they wanted that information they would get
3 it the way everyone else gets it, in our
4 offices, and we would work with them, too, so
5 they could have it. But we weren't going to
6 sent it off to wherever they wanted it sent.

7 Q So essentially BCLC just wanted to ensure that
8 the information would remain secure and the
9 information confidential?

10 A That's my understanding, for sure.

11 Q And do you recall that in early 2018 BCLC sought
12 to de-risk money service businesses, meaning that
13 they wouldn't take any money or cash originating
14 from money service businesses?

15 A Yes. That's a nice word, "de-risk," isn't it? I
16 would say "get rid of" or "ban" or whatever, but
17 yes. De-risk. We agreed to do that, yes.

18 Q And do you recall Deputy Minister Fyfe calling
19 you about this issue?

20 A I believe so. That was -- yeah. What date is
21 that again? Is that January?

22 Q Yeah. So in early 2018.

23 A Yeah. Yes, I do. And the gist of the call
24 was -- I was a little bit -- I was kind of taken
25 off guard because I didn't know what was being

1 referenced. What the call I got from the deputy
2 AG was, the gist of it was this: you've issued
3 a -- you, BCL, have issued a press release
4 showing that you're taking steps to -- in the
5 whole area of money laundering to do certain
6 things, and why would you do that? And I -- you
7 know, as I say, I was a bit taken aback. I said
8 well, I'm not quite sure what you're
9 referencing, so maybe you can explain a bit.
10 And then he told me what it was about. And I
11 said well, what that would be about is us doing
12 our job, which if we decide that something is a
13 problem or find out that something is a problem,
14 we take action for it. And I recall him saying
15 to me words to the effect -- I'm not going to
16 get them exactly -- but the gist of it was look,
17 you've been around government before; you know
18 how it operates; the minister wants to be able
19 to do this all at once in the same meeting event
20 when he lays out how the government is going to
21 handle the -- Dr. German's report and what
22 they're going to do, and we think it's
23 inappropriate -- or the minister thinks it's
24 inappropriate that you would be issuing press
25 releases in advance of that. And I responded by

1 saying well, look, I'll find out what this is
2 about, but I just want you to know that I see
3 this as two separate things. One is the taking
4 of the action, and the other is how you handle
5 it in terms of the media. You know, I don't
6 have any problem with not putting a press
7 release out, but I do have a problem with not
8 taking action if you know something is a
9 problem. That's what we should and must do.
10 And I said, unless I get -- we get a directive
11 in writing to say not to take action, you should
12 know we will continue to take action. And then
13 when I did follow up on that conversation, it
14 turned out I think there wasn't a press release
15 put out. There was a directive put out by BCLC
16 to the service providers that said these --
17 these -- you know, these groups or companies or
18 whatever were -- their business wasn't going to
19 be undertaken in the same way it was before.
20 They were derisked.

21 Q And do you recall that Mr. Kroeker thought that
22 this direction was very problematic given
23 federal obligations for BCLC to deal
24 appropriately with risk?

25 A I don't recall that, but it would shock me if he

1 didn't have that attitude. Certainly that was
2 the attitude -- I wouldn't have attributed to
3 the federal government, but certainly I had that
4 attitude and expressed it to the deputy AG. If
5 you run into something that is wrong, given all
6 of the -- you know, all that was going on at
7 that time in terms of money laundering, then you
8 fix it. You don't wait for a press conference.

9 Q Thank you. Do you recall a meeting with
10 Mr. German in the context of his review at
11 around the same time, in January 2018?

12 A I don't think so, no. I think I only had one
13 interaction with Dr. German and that would have
14 been -- I'm not sure when it would have been.
15 But it was when he was doing his investigation
16 prior to his preliminary report.

17 Q And when you did meet with Mr. German, did you
18 have any discussion with him about whether he
19 preferred a risk-based approach or a
20 prescriptive approach to AML?

21 A Yes. The meeting that I had was basically him
22 interviewing Jim Lightbody and myself together
23 on one of these screens that at that time were
24 unusual. Today... Anyway, and we asked -- I
25 don't know whether it was me or whether it was

1 Jim asked about his view of that. And he stated
2 very clearly that he thought the -- there were
3 issues with doing it prescriptively, that you
4 were better off to do it on a risk-based
5 approach.

6 Q Thank you. Just one final question for you,
7 Mr. Smith. You indicated in your evidence that
8 BCLC was providing information to Minister Eby
9 in response to what you saw as erroneous media
10 reports. Is that right?

11 A Yes, I think that's correct.

12 Q Not you specifically, but BCLC was providing
13 information?

14 A Okay, yeah. I was aware of that, yes.

15 Q What was your or BCLC's expectation about what
16 the minister would do with that information
17 provided by BCLC?

18 A Well, I don't know that I can speak to what
19 BCLC's expectation was because I don't know if
20 there was a single expectation, but I can tell
21 you what certainly my expectation would be. And
22 what I asked that we do, I was -- I asked that
23 we provide our minister with as much information
24 as possible, factual information. Because what
25 had happened was they're developed in British

1 Columbia, what I'll call a narrative. Now it's
2 so well developed as a narrative it's actually
3 received wisdom across virtually all of British
4 Columbia that BCLC was indifferent to money
5 laundering. To put the kind of spin on it
6 because they wanted to get more revenue off to
7 government or some such thing.

8 And I was of the view that we, BCLC, would
9 not --- it would not be helpful for us to try to
10 correct the specifics of that because in my
11 humble opinion, we live in a post-fact era, and
12 so facts don't matter when you've got a
13 narrative underway. And indeed facts then get
14 used to advance the narrative because you now
15 have a target, someone that you can criticize
16 severely for trying to undo what is the
17 understood correct thought. And so I said to
18 our people, I don't think BCLC should do that.
19 But I do think this: a minister has a whole
20 host of things that they have to undertake and a
21 whole host of needs and a whole host of
22 objectives that they are engaged with. Some of
23 them are administrative. Some of them are
24 actually partisan political. Some of them are
25 policy oriented. Some of them are future

1 oriented and one of them is the minister is the
2 only one that can stand up and speak for their
3 employees when something like this takes place.
4 And so to me, the minister has to balance all
5 those needs and objectives they have, but the
6 minister also has to -- if the minister is of
7 the view that the employees are worthwhile being
8 supported, then the minister has to actually do
9 that.

10 And so my view was that we should supply
11 the minister with as many facts as we could so
12 that if the minister chose to come alongside the
13 employees who were having the bejesus kicked out
14 of them, then the minister would have the
15 material available to be able to do that. So
16 that's what my view of it was. And I know that
17 we did send a lot of information to the minister.

18 MS. PEDDLE: Thank you, Mr. Smith. Those are my
19 questions.

20 THE COMMISSIONER: Thank you. Now Mr. Smart on
21 behalf of BC Lottery Corporation, who has been
22 allocated 20 minutes.

23 MR. SMART: I'll be brief, Mr. Commissioner.

24 **EXAMINATION BY MR. SMART:**

25 Q I just want to refer Mr. Smith to exhibit K to

1 his affidavit, please. There we go. Thank you.

2 A I think I've got the wrong number. No, there we
3 go.

4 Q And this is a letter that you wrote to the
5 Minister Eby on the 18th of April 2018. And I
6 want to take you to the second page, please.
7 Just before I read that, you talked about a
8 narrative, and the narrative that you're
9 referring to -- referring to, Mr. Smith, is
10 what?

11 A Well, in British Columbia starting sometime in
12 the fall of 2017, there were a lot of reports
13 done, public reports, media reports, about money
14 laundering, its relationship with the
15 affordability of housing, its relationship with
16 the incidents of overdose deaths from drugs and
17 the amount of gang violence that was taking
18 place in Metro Vancouver. And participants in
19 that dialogue which created that narrative,
20 which now is received wisdom, were various
21 people, as I say, in the media, a number of
22 leaks that came from law enforcement, assorted
23 academics who were interviewed and offered their
24 opinion about what all this meant, what it
25 didn't mean, and partisan politicians who -- you

1 know, they were in, partisan politicians at that
2 time were in a minority government situation.
3 You know, the government could be defeated at
4 any time. And so all of these groups had
5 whatever interest they had in offering the view
6 that BCLC was either the cause of affordability
7 problems and overdose deaths and gang violence
8 or a significant contributor to it. And no one
9 provided, in my experience anyway and study of
10 it, provided any quantitative measures as to
11 what connecting these dots was all about. And
12 no one defended BCLC as having been an
13 organization that was other than trying to do
14 its job, trying to fulfill its mandate, and
15 trying its best to move people away from cash,
16 to non-cash, and to do what it could to reduce
17 the incidents of money laundering in British
18 Columbia.

19 Q And that narrative really was unfair to the
20 citizens of British Columbia because it left a
21 misimpression with them?

22 A Well, I don't know how it could have done
23 otherwise. And that's why I say it's -- you
24 know, it's today what I call received wisdom.
25 You talk to people and mention, you know,

1 can state with confidence that BCLC's
2 purpose was at the time to operate
3 gambling to generate extra funding and
4 benefits for British Columbia and do it in
5 a way that is accountable to communities
6 served. As chair of the BCLC board of
7 directors for almost five years working
8 with the leadership team, I can attest
9 that remains the case today."

10 And I'll just interject. That's the
11 narrative -- not the narrative, that's the
12 evidence you've given about your involvement
13 with gaming since back in the mid-80s?

14 A Yes.

15 Q Yes.

16 "Second, I acknowledge and accept that
17 there are varying opinions on the
18 effectiveness of actions taken by BCLC to
19 address concerns about money laundering.
20 The point remains, however, that BCLC as a
21 corporate entity and our employees, as
22 syringes, recognized the threat of money
23 laundering and took action in the context
24 of the information available at the time
25 and the system within which we were

1 working."

2 And I'll just stop there. Can you explain
3 further what you meant by "the context of the
4 information available at the time and the system
5 within which we were working"?

6 A Sure. Clearly the information comes from us
7 from our own highly trained staff and also would
8 come to us perhaps from associated entities from
9 the police, from GPEB, from FINTRAC, from our
10 service providers, and indeed we would get
11 information quite frequently from some of the
12 people who were gaming, some of the -- who our
13 people were talking to and trying to know your
14 customer. It was quite amazing to me some of
15 the things that they would tell our people. So
16 that was one thing.

17 And in terms of the system within which we
18 were working, the system in which we were
19 working is that the elements of -- various
20 elements of this whole matrix are siloed so that
21 we at BCLC are in a silo that primarily is
22 responsible for gathering information. I'm
23 talking now on the enforcement side. And then
24 there are others who are in the silo that is
25 responsible for part of the enforcement and

1 the time and the system within which we
2 were working. This action had the result
3 of a consistent decrease in the number and
4 total value of Suspicious Transaction
5 Reports since April 2015. The reality of
6 money laundering, as we now understand it
7 thanks to Dr. German's review, is the
8 result of a system that did not keep up
9 with the criminal element --"

10 Which is the point you were just making.

11 A Right, yeah.

12 Q "-- and that no single person or entity is
13 responsible for this issue."

14 What did you mean by that?

15 A Well, I want to be careful how I say that, and
16 when I say no single person or entity is
17 responsible for the issue is that, first of all,
18 formally the responsibilities were siloized, and
19 so you had a piece of the responsibility here
20 and a piece of the responsibility there, but you
21 didn't have the whole thing in any one place.
22 So that is -- that is one most important element
23 of it.

24 And -- but I don't -- the way I've written
25 that, there will be those who interpret that to

1 mean that, you know, no one is to blame,
2 everyone's to blame, therefore we can't do
3 anything about it. That is not what was trying
4 to be conveyed. Frankly, when I look at those
5 words now, I regret they'd gone in there the way
6 they did because there will be people who will
7 misuse them in order to do their thing.

8 Q Okay. You carry on:

9 "To suggest that BCLC would encourage
10 employees to knowingly turn a blind eye to
11 illegal or suspicious behaviour in the
12 name of revenue generation is wrong.
13 Third, this perspective is inconsistent
14 with the tone and culture that has been
15 established by the board and management of
16 BCLC and most importantly unfair to the
17 900 employees who articulate in employee
18 engagement surveys every year that they
19 are motivated by working at an
20 organization they recognize as socially
21 responsible because it balances growth
22 with sustainability. Responsibility to
23 British Columbia is embedded in our
24 organization's DNA."

25 That's obviously what you believed then and you

1 believe now?

2 A Absolutely.

3 Q Let me ask you: why did you agree to become
4 chair of BCLC? Was it for the revenue?

5 A No. The -- well, now that you mention revenue,
6 I was thinking about this on the way in on the
7 SkyTrain this morning. My so-called honorarium
8 was \$15,000 a year. And when I think about it,
9 I was, and still happily am, in the highest tax
10 bracket, so I think I actually got about \$7,000
11 a year for being the chair of BCLC. And so it
12 wasn't the money that motivated me; let's put it
13 that way. I was asked to put my name forward,
14 which I did. I was -- the person who asked me,
15 one of the things they said is that there was a
16 bit of an issue going on because the previous
17 leadership of BCLC appeared to be moving major
18 elements of the headquarters function out of
19 Kamloops, and that was causing problems for the
20 MLAs in Kamloops. And because the people of
21 Kamloops knew that I had been directed by the
22 former premier of British Columbia when BCLC
23 came here when I served as his principal
24 secretary, one of my many files was to deliver
25 the headquarters of BCLC to Kamloops. And that,

1 and clarification of specific material
2 issues for your consideration."

3 The comment that you opted not to provide is
4 comment that you disagree -- editorial opinion
5 you disagree with Dr. German? You're
6 disagreeing with --

7 A No, I'm not disagreeing with his entire report,
8 no. But there are elements in the report that
9 speak to this issue of the motivation of BCLC as
10 being unworthy that I said that we'd opted not
11 to comment on, for the reasons I've just
12 articulated, that there was by then a fully
13 formed narrative and received wisdom and it
14 would be pointless to try to -- to try to object
15 to that.

16 Q What you were disagreeing was with Dr. German's
17 description of BCLC as an organization being
18 wilfully blind --

19 A Yes.

20 Q -- to money laundering occurring --

21 A Yes.

22 Q -- and proceeds of crime?

23 A Yeah, absolutely. I mean, it's not correct.

24 Q Did you hope that the minister would take steps?

25 A Yes. I think it's important -- there's certain

1 things in public life that only a minister can
2 do. And one of them is when the people who work
3 for the minister are put in a wrongful situation
4 in terms of the public information, the minister
5 has the clout, to use an odd word, to correct
6 that. Some ministers do anyway. And this
7 minister would have been one of those because
8 the -- because he had a very good relationship,
9 it appeared, with media, and it would be through
10 the media that you would make that correction.
11 So I think if the minister were inclined and the
12 minister were to say look, that's not correct
13 and it's not fair, I think his words -- those
14 words coming out of his mouth would have had
15 real resonance and would have been of great
16 assistance to those individuals who were working
17 for BCLC who were really, really hurt by this.
18 There was a goodly number of them left, frankly.

19 Q You conclude by saying:

20 "BCLC can and will improve the ways in
21 which we are addressing money laundering.
22 We remain steadfast in our commitment to
23 be part of the solution by continuing to
24 meet and exceed our responsibilities to
25 regulators, supporting a cultural that is

1 accountable to the communities we serve
2 and working collaboratively and in support
3 of all agencies to combat this insidious
4 issue impacting our economy and our
5 communities."

6 Did you believe up to that point in time BCLC
7 had been doing that?

8 A Yes. And I still do. And I wanted to give the
9 minister confidence that we would continue to do
10 that.

11 Q Have you seen anything to suggest that BCLC
12 hasn't been continuing to do that?

13 A Not -- no, I have not. I have not.

14 MR. SMART: Thank you. Those are my questions,
15 Mr. Commissioner.

16 THE COMMISSIONER: Thank you, Mr. Smart.

17 Anything arising, Ms. Peddle?

18 MS. PEDDLE: No, thank you, Mr. Commissioner.

19 THE COMMISSIONER: Mr. McFee?

20 MR. McFEE: Nothing arising, thank you,
21 Mr. Commissioner.

22 THE COMMISSIONER: Ms. Rajotte?

23 MS. RAJOTTE: Nothing arising, thank you,
24 Commissioner.

25 THE COMMISSIONER: Mr. McGowan?

1 MR. MCGOWAN: No, thank you.

2 THE COMMISSIONER: Thank you. Thank you, Mr. Smith,
3 for taking the time to share your experiences
4 and insights with us. It has been helpful to
5 us, and you're now excused from further
6 testimony. Thank you.

7 THE WITNESS: Thank you, Commissioner.

8 **(WITNESS EXCUSED)**

9 THE COMMISSIONER: We will adjourn now until tomorrow
10 morning at 9:30.

11 THE REGISTRAR: The hearing is adjourned until
12 February 5th, 2021, at 9:30 a.m. Thank you.

13 **(PROCEEDINGS ADJOURNED AT 2:07 P.M. TO FEBRUARY 5, 2021)**

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